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Filing date: **06/24/2009**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

| | |
|---------------------------|--|
| Proceeding | 92051101 |
| Party | Defendant OMS Investments, Inc. |
| Correspondence Address | OMS Investments, Inc. 10250 Constellation Blvd., Suite 2800 Los Angeles, CA 90067 UNITED STATES |
| Submission | Motion to Suspend for Civil Action |
| Filer's Name | Kathryn Barry Bartow, Esq. |
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| Signature | /Kathryn Barry Bartow/ |
| Date | 06/24/2009 |
| Attachments | 06.24.2009 - OMS Motion to Suspend - Opp# 92051101.pdf (36 pages) (1041425 bytes) 06.24.2009 - OMS Exhibits in Support of Motion to Suspend - Opp# 92051101.pdf (102 pages) (3888043 bytes) |

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Pennington Seed, Inc. and
Pennington Seed, Inc. of Nebraska

Petitioner,

v.

OMS Investments, Inc.

Registrant.

Cancellation No. 92051101

REGISTRANT'S MOTION TO SUSPEND CANCELLATION PROCEEDING

Registrant OMS Investments, Inc. ("Registrant") moves to suspend this proceeding pursuant to Trademark Rule 2.117(a) until final determination of a related civil action styled *OMS Investments, Inc. and The Scotts Company LLC v. Pennington Seed, Inc., Pennington Seed, Inc. of Nebraska and Central Garden & Pet Company*, No. 2:09 CV 470 pending in the United States District Court for the Southern District of Ohio, Eastern Division (the "Ohio Action").

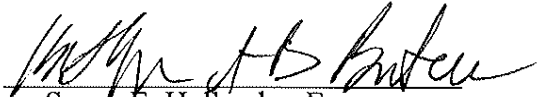
The grounds from this motion are that the Ohio Action involves issues common to this cancellation proceeding. In particular the Ohio Action involves the issue of whether Registrant is entitled to a declaratory judgment that it is entitled to use and register its WATER SMART Marks. A true and accurate copy of the Complaint in the Ohio Action is attached hereto as Exhibit 1.

The Board should exercise its discretion to suspend this proceeding because the resolution of the Ohio Action could resolve some or all of the issues in this proceeding, which resolution would be binding on the Board.

DATED: June 24, 2009

Respectfully submitted,

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OMS Investments, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Registrant's Motion to Suspend Cancellation Proceeding has been properly served, via first class mail, postage prepaid, and via email on the following attorneys for Petitioner this 24th day of June, 2009.

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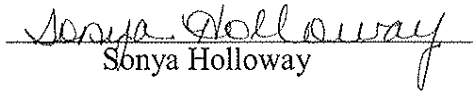

Sonya Holloway

Exhibit 1 to Motion to Suspend

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
JAMES BONINI
CLERK

09 JUN 10 PM 4:02

U.S. DISTRICT COURT
SOUTHERN DIST. OHIO
EAST. DIV. COLUMBUS

OMS INVESTMENTS, INC., a Delaware Corporation, 10250 Constellation Boulevard, Suite 2800, Los Angeles, California 90067, and

THE SCOTTS COMPANY LLC, an Ohio Limited Liability Company, 14111 Scottslawn Road, Marysville, Ohio 43041

Plaintiffs,

vs.

PENNINGTON SEED, INC. a Delaware Corporation, 1280 Atlanta Highway, Madison, Georgia 30650;

PENNINGTON SEED, INC. OF NEBRASKA, a Nebraska Corporation, 1280 Atlanta Highway, Madison, Georgia 30650;

CENTRAL GARDEN & PET COMPANY a California Corporation, 1340 Treat Boulevard, Suite 600, Walnut Creek, California 94597

Defendants.

2 : 09 cv 470

CASE NO. _____

JUDGE FROST;

JUDGE **MAGISTRATE JUDGE KING**

JURY DEMAND ENDORSED HEREON

COMPLAINT

Plaintiffs OMS Investments, Inc. and The Scotts Company LLC (collectively "Scotts" or "Plaintiffs"), for their complaint against defendants Pennington Seed, Inc., Pennington Seed, Inc. of Nebraska, and Central Garden & Pet Company (collectively "Pennington" or "Defendants"), allege as follows:

NATURE OF THE ACTION

1. Scotts is one of the world's leading marketers of branded consumer lawn and garden products, with a full range of products for professional horticulture as well. Scotts owns

some of the industry's most recognized brands, including SCOTTS® and MIRACLE-GRO®. Scotts also has created a unique trade dress for each of those brands, including the famous green and yellow trade dress of the MIRACLE-GRO® line.

2. Defendants, competitors of Scotts in the lawn and garden industry, have, without Scotts' permission, adopted a trade dress for its "Sunburst" grass seed product line that is confusingly similar to the trade dress Scotts uses on its MIRACLE-GRO® product line, including a predominating green and yellow color scheme. Pennington's actions constitute trade dress infringement under the Lanham Act, 15 U.S.C. § 1125(a) and state law.

3. Were this not enough, Pennington is also infringing Scotts' federally registered family of GRO trademarks and service marks, which are used in connection with a wide range of goods and services including fertilizers, plants, soils and other lawn and garden items. Pennington's actual and intended use and registration of the mark QUIKGRO2X (the "QUIKGRO2X Mark"), which incorporates Scotts' famous and distinctive GRO suffix, in connection with grass seed, is also likely to cause confusion as to a connection with or association between Pennington and Scotts, or between the goods and services of each, constituting trademark infringement, dilution, and unfair competition in violation of the Lanham Act, 15 U.S.C. § 1051 *et seq.* and state law.

4. In addition, there is a direct and actual controversy between the parties regarding Scotts' registration and use of three pending trademark applications incorporating the WATER SMART Mark, including Trademark Application Serial Numbers 77/392,595, 77/238,879, and 77/323,047. Pennington claims Scotts is not entitled to register or use the WATER SMART Marks as exemplified in Trademark Application Serial Numbers 77/392,595, 77/238,879, and 77/323,047 or Trademark Registration Number 3,477,872 (collectively, the "WATER SMART

Marks”), when, in fact, for a variety of reasons, Scotts is entitled to use and register the WATER SMART Marks. Indeed Pennington has filed opposition and cancellation proceedings against Scotts’ WATER SMART Marks in the Trademark Trial and Appeals Board. Pennington’s claims present an actual, substantial and immediate controversy that requires adjudication by the Court so that the parties know their legal rights, liabilities and status.

5. Scotts now seeks injunctive relief to stop Pennington’s infringement of Scotts’ distinctive and famous trade dress and trademarks, and to terminate the controversy between the parties and remove uncertainties with respect to Scotts’ right to use and register the WATER SMART Marks. In addition, Scotts seeks damages to compensate Scotts for the harm caused by Pennington’s wrongful conduct.

THE PARTIES

6. Plaintiff OMS Investments, Inc. is a corporation organized and existing under the laws of Delaware, with its principal place of business at 10250 Constellation Boulevard, Suite 2800, Los Angeles, California 90067. Plaintiff is a subsidiary of The Scotts Company LLC.

7. Plaintiff The Scotts Company LLC is a limited liability company organized and existing under the laws of Ohio, with its principal place of business at 14111 Scottslawn Road, Marysville, Ohio 43041.

8. Defendant Pennington Seed, Inc. is a corporation organized and existing under the laws of Delaware, with a business address of 1280 Atlanta Highway, Madison, Georgia 30650.

9. On information and belief, Defendant Pennington Seed, Inc. of Nebraska is a Nebraska corporation with a business address of 1280 Atlanta Highway, Madison, Georgia 30650. On information and belief, Pennington Seed, Inc. of Nebraska is the owner of the

trademark applications and registrations on which Pennington bases its opposition to Scotts' WATER SMART Marks.

10. Defendant Central Garden and Pet Company ("Central") is, on information and belief, a California corporation with a business address of 1340 Treat Boulevard, Suite 600, Walnut Creek, California 94597. Central is a publicly-traded company with several thousand employees and, on information and belief, is the parent corporation of Pennington. Central competes with Scotts in the sale of residential lawn care products.

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction over this action pursuant to (i) 28 U.S.C. § 1331, as this action arises out of the laws of the United States of America; (ii) 15 U.S.C. § 1121, as this action involves claims under the Lanham Act of 1946, as amended, 15 U.S.C. § 1051 *et seq.*; (iii) 28 U.S.C. § 1338(a) and (b), as this action arises in part under an Act of Congress relating to trademarks; and (iv) as this action includes claims under the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.* This Court has supplemental jurisdiction over the state law claims asserted herein under 28 U.S.C. § 1367 as such claims are part of the same case or controversy.

12. This Court has personal jurisdiction over Defendants and venue is proper in this judicial district under 28 U.S.C. § 1391 because, among other things, Defendants do business in this district and have engaged and are engaging in statutory violations and other unlawful activities that are causing substantial injury to Scotts in this district.

VENUE

13. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because Defendants do business in this district and have engaged and are engaging in statutory violations and activities that are causing substantial injury to Scotts in this district.

FACTUAL ALLEGATIONS

14. Scotts markets a complete line of plant and garden products under the famous and distinctive MIRACLE-GRO trademark. The MIRACLE-GRO® line was first introduced to the American public in 1951 and has been continuously sold ever since. MIRACLE-GRO® products include a wide variety of plant foods, lawn foods, rooting hormones, bloom enhancers, enhanced soils, and potting mixes, as well as live plants and gardening gloves. MIRACLE-GRO® is now one of the most recognizable and valuable brands in the consumer lawn and garden industry. In the United States, consumer awareness of the MIRACLE-GRO® brand is several times greater than that of the nearest competitor.

15. In addition to offering one of the world's leading lawn and garden brands, Scotts is a leader in giving back to the community. Scotts is a participant in the "Give Back to Gro" initiative, which encompasses numerous programs for community development and environmental stewardship. For instance, Scotts and its affiliates are one of the founding sponsors of the National Garden, a living laboratory for environmental, botanical and horticultural education on three acres adjacent to the U.S. Botanical Garden Conservatory in Washington D.C. In the Miracle-Gro Kids Columbus program, the company has adopted a classroom of third graders, providing them with educational, health, family and social support throughout their academic career, culminating in an ensured college tuition. The company also is committed to the environment. Scotts and its affiliates are collectively recognized as one of

the leading recyclers in the United States. Moreover, the company has won praise for its environmental commitment, being certified to ISO 14001 standards, an international certification that evaluates a company's ability to apply sound environmental principals. In addition, The Scotts Company LLC was elected to receive the Ohio Chemistry Technology Council's 2001 Award for Excellence in Responsible Care.

Scotts' GRO Marks

16. OMS owns numerous trademarks and service marks incorporating its famous and distinctive MIRACLE-GRO mark and GRO element (the "GRO Marks"). Since at least as early as 1951, Scotts has used one or more of its MIRACLE-GRO marks in connection with a wide range of goods, including without limitation fertilizers, live plants and seeds, plant growing media and soil conditioners, herbicides, plant containers, flower pots and planters, root stimulating hormones, potting mix and soil, watering cans and work and gardening gloves; and services, including without limitation, lawn and gardening consulting services, all as reflected in the following representative registrations issued and applications pending on the Principal Register of the United States Patent and Trademark Office ("USPTO"):

| Registered Mark | Registration No. |
|---|------------------|
| MIRACLE-GRO | 668868 |
| MIRACLE-GRO | 1223038 |
| EARTHGRO | 1378337 |
| EARTHGRO | 1378721 |
| EARTHGRO THE NATURAL CHOICE & Design | 1723116 |
| EARTHGRO THE NATURAL CHOICE & Design | 1726060 |
| MIRACLE-GRO | 2235973 |
| MIRACLE-GRO POUR & FEED | 2601682 |
| MIRACLE-GRO GARDEN WEED PREVENTER & PLANT FOOD | 2618698 |
| MIRACLE-GRO GARDEN WEED PREVENTER | 2618699 |
| MIRACLE-GRO SELECT PLANTS & DESIGN | 2723181 |
| MIRACLE-GRO PROFESSIONAL TREE & SHRUB CARE & Design | 2758533 |
| MIRACLE-GRO FAST ROOT | 2787356 |
| MIRACLE-GRO TREE & SHRUB CARE | 2809982 |

| | |
|--|---------|
| MIRACLE-GRO SELECT PLANTS & DESIGN | 2816031 |
| MIRACLE-GRO & Design | 2820953 |
| MIRACLE-GRO & Design | 2822655 |
| MIRACLE-GRO | 2856922 |
| MIRACLE-GRO & Design | 2856923 |
| MIRACLE-GRO & Design | 2856924 |
| HAVE YOU USED MIRACLE-GRO LATELY? | 2870768 |
| MIRACLE-GRO SELECT PLANTS & Design | 2900658 |
| MIRACLE-GRO & Design | 2906855 |
| MIRACLE-GRO & Design | 2906856 |
| MIRACLE-GRO MOISTURE CONTROL POTTING MIX CONTAINS AQUACOIR & DESIGN | 2935663 |
| MIRACLE-GRO & Design | 2996098 |
| MIRACLE-GRO | 3074660 |
| MIRACLE-GRO GARDEN SOIL ROSES & Design | 3156217 |
| MIRACLE-GRO ORGANIC CHOICE | 3180531 |
| MIRACLE-GRO GARDEN SOIL TREES & SHRUBS & Design | 3182529 |
| MIRACLE-GRO GARDEN SOIL FLOWERS & VEGETABLES & Design | 3190987 |
| MIRACLE-GRO & Design | 3233837 |
| MIRACLE-GRO | 3456832 |
| GARDEN-GRO | 3498947 |
| IT'S GRO TIME | 3552933 |

| Pending Mark | Application No. |
|---------------------------|-----------------|
| GARDEN GRO | 76/653762 |
| IT'S GRO TIME | 77/341556 |
| IT'S GRO TIME | 77/341562 |
| PRO GRO | 77/406779 |
| MIRACLE-GRO SELECT PLANTS | 77/421528 |
| ORGANIC-GRO | 77/699226 |
| ORGANIC-GRO | 77/699235 |
| SLO-GRO | 77/727569 |
| LET YOURSELF GRO | 78/795657 |
| GRO | 77/755926 |
| GRO | 77/755931 |
| GRO (STYLIZED) | 77/755934 |
| GRO (STYLIZED) | 77/755935 |
| GRO (STYLIZED) | 77/755938 |
| GRO (STYLIZED) | 77/755988 |

True and correct copies of these registrations or pages from the USPTO's online database reflecting the status of the marks are attached hereto as Exhibit 1

17. Due to the national, and indeed, worldwide consumer recognition and goodwill of the GRO Marks, consumers have come to recognize the simple suffix "GRO" as symbolizing the

goodwill inherent in the GRO Marks, and associate the GRO suffix solely with Scotts and its line of high quality lawn and garden products.

18. Each of the trademark registrations for the GRO Marks are valid and subsisting in full force, unrevoked and uncanceled. Notably, Registrations Nos. 668,868 (MIRACLE-GRO); 1,223,038 (MIRACLE-GRO); 2,235,973 (MIRACLE-GRO); 1,378,337 (EARTHGRO); 1,378,721 (EARTHGRO); 1,723,116 (EARTHGRO THE NATURAL CHOICE & Design); 1,726,060 (EARTHGRO THE NATURAL CHOICE & Design); 2,601,682 (MIRACLE-GRO POUR & FEED); 2,618,698 (MIRACLE-GRO GARDEN WEED PREVENTER & PLANT FOOD); and 2,618,699 (MIRACLE-GRO GARDEN WEED PREVENTER) are incontestable.

19. The distinctiveness of Scotts' GRO Marks as well as Scotts' MIRACLE-GRO Trade Dress (collectively, the "Scotts Marks") is buttressed by their widespread secondary meaning in the marketplace. Scotts has expended and continues to expend substantial time, money and effort in promoting its Scotts Marks in magazines, newspapers, sports sponsorships and through nationally broadcast television and radio commercials. Further, since at least as early as 1997, Scotts has operated the popular website *miraclegro.com*, which offers product information on the MIRACLE-GRO products, as well as other lawn and garden-related information.

20. Moreover, over the years, the Scotts Marks and the products associated with those marks have also received a significant amount of unsolicited press and have been the subject of numerous articles in major publications.

21. Finally, Scotts has a pattern and practice of vigilantly policing and protecting its rights in and to the Scotts Marks throughout the United States and the world.

22. As a result of Scotts' efforts, both the GRO Marks and the MIRACLE-GRO Trade Dress have acquired secondary meaning in that the public has come to recognize Scotts as the exclusive source of the goods and services bearing those marks. Clearly, the Scotts Marks have become assets of substantial value and symbols of Scotts' good will.

Scotts' MIRACLE-GRO Trade Dress

23. In addition to the distinctive and famous MIRACLE-GRO® brand name, the trade dress that accompanies Scotts' MIRACLE-GRO® product line, particularly the green and yellow color combination of its packaging, has also become associated in the minds of the consuming public with Scotts and its high quality products.

24. Specifically, the trade dress used on the MIRACLE-GRO® All Purpose Plant Food Product and the MIRACLE-GRO Water Soluble Lawn Food Product is comprised of a combination of numerous original and distinctive features that identify the products as emanating solely from Scotts, including:

- A green and yellow color combination that predominates the product packaging.
- A yellow background on the product containers.
- A photograph of a lawn or of plants and flowers across the bottom portion of the package.

25. The unique combination of the features described above, combined with the other MIRACLE-GRO products featuring the famous and distinctive green and yellow color combination and other design elements including the trade dress subject to U.S. Trademark Registration No. 2,139,929 (collectively, the "MIRACLE-GRO Trade Dress"), creates an overall commercial impression that is inherently distinctive and that consumers have come to associate exclusively with Scotts. A true and correct representation of the MIRACLE-GRO® All Purpose

Plant Food Product and the MIRACLE-GRO Water Soluble Lawn Food Product and other products containing the MIRACLE-GRO Trade Dress is attached hereto as Exhibit 2.

26. Indeed, the MIRACLE-GRO green and yellow color combination is so clearly associated in consumers' minds with Scotts that Scotts' subsidiary, OMS, was able to obtain U.S. Trademark Registration No. 2,139,929, which expressly covers the green and yellow color combination used in the MIRACLE-GRO Trade Dress. A true and correct copy of the Registration Certificate for this mark is attached hereto as Exhibit 3. This registration is incontestable, providing the green and yellow color combination with the presumption that it is strong and deserving of a wide scope of protection.

27. Not only is the MIRACLE-GRO Trade Dress inherently distinctive, it has also achieved secondary meaning in the marketplace. For instance, since at least as early as 1951, Scotts has applied the distinctive MIRACLE-GRO Trade Dress to the MIRACLE-GRO® All Purpose Plant Food Product. Since that time, Scotts has used the distinctive MIRACLE-GRO Trade Dress on the MIRACLE-GRO Water Soluble Lawn Food Product. Scotts also has expended substantial effort and financial resources in promoting and advertising the MIRACLE-GRO Trade Dress in newspapers, magazines, sponsorships, and through television commercials broadcast throughout the United States. In addition, the MIRACLE-GRO® Trade Dress has been prominently featured on the popular website *www.miraclegro.com*, among others. Over the years, the MIRACLE-GRO Trade Dress has received a significant amount of unsolicited press and has been the subject of numerous articles in major publications.

28. Scotts' promotional efforts have generated sales totaling hundreds of million for products bearing the MIRACLE-GRO Trade Dress. As a result of the widespread public recognition and renown of the MIRACLE-GRO Trade Dress, it has achieved fame and

secondary meaning in that consumers associate the MIRACLE-GRO Trade Dress solely with products of the highest quality and recognize Scotts as the exclusive source of the goods and services bearing that trade dress.

Scotts' WATER SMART Marks

29. Scotts owns Trademark Registration Number 3,477,872 for WATER SMART in Class I for "Fertilizers for domestic, agricultural and horticultural use," (the "WATER SMART Registration").

30. Pennington recently filed a Petition to Cancel the WATER SMART Registration, proceeding number 92050878, in the Trademark Trial and Appeals Board. Pennington's Petition alleges a likelihood of confusion with Pennington's PENNINGTON SEED SMART SEED and WATER STAR Marks and that the WATER SMART Marks are somehow "misdescriptive." It further alleges that Pennington's PENNINGTON SEED SMART SEED and WATER STAR Marks are valid, distinctive, famous, and well-known and that Scotts' WATER SMART registration dilutes these marks. For a variety of reasons, Pennington's Cancellation Petition lacks merit and Scotts is entitled to continued use and registration of the WATER SMART Registration.

31. Scotts also owns three Trademark Applications incorporating the WATER SMART Mark. These include Serial Number 77/392,595 for WATER SMART in Class 44 for "providing advice and information on the subjects of lawn care, environmental stewardship practices relating to lawn care, and the use of products relating to lawn care, including fertilizers, pesticides, herbicides, grass seed, soil, soil conditioners and amendments, and lawn and garden equipment via print, advertising, and the internet; providing in-store consulting services on the subjects of lawn care, environmental stewardship practices relating to lawn care, and the use of products relating to lawn care, including fertilizers, pesticides, herbicides, grass seed, soil, soil

conditioners and amendments, and lawn and garden equipment; lawn, tree, and shrub care services; consulting services in the field of lawn, tree, and shrub care”; Number 77/238,879 for WATER SMART FORMULA MAKES THE MOST OF EVERY DROP & Design in Class 1 for “Fertilizers for domestic, agricultural and horticultural use; soil amendments, soil conditioners, and soil improving agents for domestic, agricultural and horticultural use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam”; and Number 77/323,047 for WATER SMART in Class 31 for “Grass seed; grass products, namely, grass sod and grass plugs; top soil; mulch; raw bark; peat moss; grass seed combined with fertilizer and mulch for the purpose of lawn repair; top soil containing fertilizer;” (collectively the “WATER SMART Applications”).

32. Pennington recently filed Notices of Opposition against each of Scotts’ WATER SMART Applications. In its Trademark Trial and Appeals Board Oppositions (consolidated proceedings numbers 91186723, 91186718, and 91187785), Pennington claims that there is a likelihood of confusion between Pennington’s PENNINGTON SEED SMART SEED and WATER STAR Marks and Scotts’ WATER SMART Applications and that the WATER SMART Marks are somehow “misdescriptive.” It further alleges that Pennington’s PENNINGTON SEED SMART SEED and WATER STAR Marks are valid, distinctive, famous, and well-known and that Scotts’ WATER SMART applications will dilute Pennington’s Marks. For a variety of reasons, Pennington’s Opposition Proceedings lack merit and Scotts is entitled to registration of the WATER SMART Applications.

33. Pennington further claims that Scotts is not entitled to use the WATER SMART Marks as exemplified in Trademark Application Serial Numbers 77/392,595, 77/238,879, and

77/323,047 or Trademark Registration Number 3,477,872 (collectively the “WATER SMART Marks”). Again, Pennington’s claims are in error.

Defendants’ Wrongful Conduct: Trademark Infringement

34. On or about December 26, 2008, Pennington Seed, Inc. of Nebraska filed United States Trademark Application Serial No. 77/640,115 for the stylized mark QUIKGRO2X in International Class 031 for “grass seed additive sold only as applied to and as an integral component of the seed” (the “QUIKGRO2X Application”). This application is an intent-to-use application and was filed well after Scotts began use of its distinctive and famous GRO Marks.

35. On information and belief, QUIKGRO2X branded products are available in Ohio and nationally through retailers such as Lowe’s. A true and correct copy of printouts from Lowe’s website showing QUIKGRO2X branded products for sale in Ohio and nationwide is attached hereto as Exhibit 4.

36. Because Scotts’ first use of its GRO Marks predates the filing date for Pennington’s QUIKGRO2X Application, there is no question that the GRO Marks enjoy priority over the QUIKGRO2X Mark.

37. Moreover, the QUIKGRO2X Mark is confusingly similar to the GRO Marks because they are similar in appearance, sound and commercial impression, pursuant to 15 U.S.C. § 1052(d). Among other things, the dominant elements of the QUIKGRO2X Mark is suffix and word element “GRO” – the primary element of Scotts’ GRO family of marks.

38. On information and belief, Pennington deliberately adopted the QUIKGRO2X Mark with the intention of trading off the goodwill associated with the GRO Marks. Indeed, by using the suffix “GRO” rather than the independent word “GROW,” it is clear that the

QUIKGRO2X Mark was designed to trade off of consumers' understanding that "GRO" is uniquely associated with Scotts and its GRO Marks.

39. Given the goodwill and public recognition arising from the association of the GRO Marks with Scotts, consumers are likely to believe that Scotts has sponsored, endorsed, approved or otherwise authorized the Pennington's use of the QUIKGRO2X Mark, when this is in fact not the case.

40. To date, despite actual knowledge of Scotts' prior and senior rights in and to its GRO Marks, including MIRACLE-GRO, Pennington continues to use and seek registration of the QUIKGRO2X Mark. This wrongful and willful use constitutes trademark infringement, false designation of origin, dilution and unfair competition in violation of the Lanham Act and of Ohio statutory and common law.

Defendants' Wrongful Conduct: Trade Dress Infringement

41. Pennington is a national supplier of lawn products and professional turf products and is a direct competitor of Scotts. Among Pennington's products that compete with those of Scotts are its "Sunburst" line of grass seed products including, but not limited to, its Kentucky 31 Tall Fescue (both Penkoted and not Penkoted varieties), Argentine Bahiagrass, Creeping Red Fescue, Fescue Plus Blend, Kwik Grass Mixture, Pennsylvania State Grass Seed Mixture, Annual Ryegrass, Pensacola Bahiagrass, Professional Contractor's Mixture, Professional Landscapers Mixture, and Thrifty Grass Seed Mixture products marketed and sold under the Pennington brand name (Collectively the "Pennington Sunburst Products"). Images of the trade dress Pennington uses on the Pennington Sunburst Products is attached as Exhibit 5.

42. On information and belief, prior to 2004, the trade dress Pennington used on the Pennington Sunburst Products was radically different than the trade dress Pennington now uses

on those products. For example, in Pennington's 2000 Product Catalog, the trade dress for the Kentucky 31 Tall Fescue grass seed product, is a simple trade dress featuring a clear bag in which the product name and a large white house predominates and which is radically different from the MIRACLE-GRO Trade Dress. Likewise, unlike the current versions of the Pennington Sunburst Products trade dress, the former trade dress Pennington used on its Kwik Grass Mixture, Professional Contractor's Mixture, Professional Landscaper's Grass Seed, Pensacola Bahiagrass, Creeping Red Fescue, and Argentine Bahiagrass product packaging bore little or no resemblance to the MIRACLE-GRO Trade Dress. Attached as Exhibit 6 are samples of prior trade dress Pennington used on the Pennington Sunburst Products. On information and belief, the trade dress depicted in Exhibit 6 was used by Pennington until long after Scotts introduced its famous, unique and distinctive MIRACLE-GRO Trade Dress, including the MIRACLE-GRO All Purpose Plant Food and MIRACLE Lawn Food Product Trade Dress.

43. On information and belief, sometime in or around 2004, Pennington revised the look of the trade dress used in connection with its Pennington Kentucky 31 Tall Fescue grass seed product and after 2004 Pennington revised the look of the trade dress for the other Pennington Sunburst Products. In developing its new trade dress, Pennington adopted a trade dress for the Pennington Sunburst Products that was significantly different from the previous iterations and was highly reminiscent of the MIRACLE-GRO Trade Dress.



See Exhibit 7. Since 2004, and despite protests from Scotts, Pennington has expanded its use of the infringing trade dress.

44. Pennington currently markets and sells Pennington Sunburst Products throughout the United States, including in Ohio. Indeed, on information and belief, Pennington's Sunburst Products are available nationally through the same channels of trade as Scotts' products, including at retailers such as Wal-Mart, Lowe's, Target, and K-Mart, and can be found in close proximity to products bearing the MIRACLE-GRO Trade Dress.

FIRST CLAIM FOR RELIEF

Trademark Infringement under 15 U.S.C. § 1114

45. Scotts repeats and realleges the allegations of paragraphs 1–44 as if fully set forth herein.

46. Pennington's acts alleged herein constitute use of colorable imitations of Scotts' federally registered GRO Marks, in connection with the displaying, advertising and/or sale of unauthorized goods and services in commerce. These activities create a likelihood of confusion, mistake or deception as to the affiliation, connection or association of Pennington with Scotts, or

as to the origin, sponsorship or approval of Pennington's goods and services by Scotts, in violation of 15 U.S.C. § 1114.

47. Pennington's acts alleged herein are without Scotts' consent or authority.

48. Pennington's acts alleged herein were with full knowledge of Scotts' rights, title and interest in the GRO Marks, and were made with the willful intent to trade on the goodwill associated with those marks and to cause confusion, mistake or deception in the minds of the consuming public. Such acts have damaged, impaired and diluted that part of Scotts' goodwill symbolized by its famous GRO Marks, to Scotts' detriment.

49. Pennington's use of the QUIKGRO2X Mark, which is confusingly similar to the GRO Marks, constitutes trademark infringement in violation of 15 U.S.C. §§ 1114.

50. Pennington's wrongful conduct, unless and until enjoined and restrained by order of this Court, will cause great and irreparable injury to Scotts.

51. Scotts has no adequate remedy at law, and is entitled to injunctive relief prohibiting Defendants from using the QUIKGRO2X Mark, or any marks confusingly similar to the GRO Marks on their websites and in connection with their goods and services.

52. As a direct and proximate result of Pennington's trademark infringement, Scotts has been damaged in an amount to be proved at trial.

53. The acts alleged herein constitute an exceptional case under 15 U.S.C. § 1117(a).

SECOND CLAIM FOR RELIEF

Trade Dress Infringement under 15 U.S.C. § 1125(a)

54. Scotts repeat and reallege the allegations of paragraphs 1-53 as if fully set forth herein.

55. The MIRACLE-GRO Trade Dress is inherently distinctive and has acquired secondary meaning.

56. The MIRACLE-GRO Trade Dress is non-functional.

57. Defendants have infringed and will continue to infringe Scotts' MIRACLE-GRO Trade Dress by copying and incorporating the elements of that trade dress into its Pennington Sunburst Products.

58. Pennington's production, marketing, and sale of the Pennington Sunburst Products and the trade dress embodied therein creates a likelihood of confusion, mistake, or deception as to the source, origin, or sponsorship of Pennington's goods. The trade dress of the Pennington Sunburst Products is likely to induce consumers to believe, contrary to fact, that Pennington's goods are rendered, sponsored, sold, approved by, or connected with Scotts.

59. Pennington's production, marketing, and sale of the trade dress embodied in the Pennington Sunburst Products are without Scotts' consent or authority and commenced after the date of Scotts' first use of its famous and distinctive MIRACLE-GRO Trade Dress. Pennington has committed their infringement with full knowledge of Scotts' rights in its MIRACLE-GRO Trade Dress. Moreover, Pennington has willfully, deliberately, and maliciously engaged in the described acts with intent to injure Scotts and to deceive the public.

60. Pennington's acts alleged herein have been and are being committed with the intent and purpose of appropriating and trading upon the goodwill and reputation associated with Scotts and the MIRACLE-GRO Trade Dress and have damaged, impaired, and diluted that part of Scotts' goodwill symbolized by the MIRACLE-GRO Trade Dress, to Scotts' immediate and irreparable harm.

61. Pennington's unauthorized production, marketing and sale of their Pennington Sunburst Products, which products bear trade dress confusingly similar to the MIRACLE-GRO Trade Dress, constitute trade dress infringement in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

62. This case constitutes an exceptional case under 15 U.S.C. § 1117(a).

63. Pennington's wrongful conduct has caused damage to Scotts' business reputation and goodwill, and unless restrained and enjoined, will continue to seriously and irreparably impair the value of the MIRACLE-GRO Trade Dress for which there is no adequate remedy at law.

64. Scotts is entitled to injunctive relief prohibiting Pennington from using the trade dress currently embodied in the Pennington Sunburst Products pursuant to 15 U.S.C. § 1116.

65. As a direct and proximate result of Pennington's trade dress infringement, Scotts has been damaged in an amount to be proved at trial.

THIRD CLAIM FOR RELIEF

(Federal False Designation of Origin under 15 U.S.C. § 1125(a))

66. Scotts repeats and realleges paragraphs 1-65 of this complaint as if fully set forth herein.

67. Pennington's acts alleged herein constitute use in commerce of words, terms, names, symbols, devices, false designations of origin and false or misleading descriptions of fact which are likely to cause confusion or to cause mistake as to the origin, sponsorship or approval of Pennington's goods and services with those of Scotts in violation of 15 U.S.C. § 1125(a).

68. Pennington's acts alleged herein constitute use in commercial advertising and promotion, the words, terms, names, symbols, devices, false designations of origin and false or

misleading descriptions of fact which misrepresents the nature, characteristics or qualities of its goods and services in violation of 15 U.S.C. § 1125(a).

69. Pennington's acts alleged herein are without Scotts' consent or authority.

70. Pennington's acts alleged herein were with full knowledge of Scotts' rights, title and interest in the Scotts Marks, and were made with the willful intent to trade on the goodwill associated with those marks and to cause confusion, mistake or deception in the minds of the consuming public. Such acts have damaged, impaired and diluted that part of Scotts' goodwill symbolized by its famous Scotts Marks, to Scotts' detriment.

71. Pennington's use of the QUIKGRO2X Mark, which is confusingly similar to the GRO Marks, constitutes a false designation of origin and false advertising in violation of 15 U.S.C. §§ 1125(a).

72. Pennington's use of the Pennington Sunburst Products trade dress, which is confusingly similar to the MIRACLE-GRO Trade Dress, constitutes a false designation of origin and false advertising in violation of 15 U.S.C. §§ 1125(a).

73. Pennington's wrongful conduct, unless and until enjoined and restrained by order of this Court, will cause great and irreparable injury to Scotts.

74. Scotts has no adequate remedy at law, and is entitled to injunctive relief prohibiting Pennington from using the QUIKGRO2X Mark or the Pennington Sunburst Products Trade Dress, or any marks confusingly similar to the Scotts Marks in connection with its goods and services.

75. As a direct and proximate result of Pennington's trademark infringement, Scotts has been damaged in an amount to be proved at trial.

76. The acts alleged herein constitute an exceptional case under 15 U.S.C. § 1117(a).

FOURTH CLAIM FOR RELIEF

Trademark and Trade Dress Dilution under 15 U.S.C. § 1125(c)

77. Scotts repeats and realleges the allegations of paragraphs 1-77 as if fully set forth herein.

78. Scotts owns the Scotts Marks, which are distinctive and famous as defined by Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c) and which are known in the minds of the consuming public as representing goods and services of the highest quality. The MIRACLE-GRO Trade Dress, taken as a whole, is famous and distinctive separate and apart from the fame of any registered mark contained within the MIRACLE-GRO Trade Dress.

79. Pennington began using the QUIKGRO2X Mark in commerce in the United States after the GRO Marks became famous, which use has caused the dilution of the distinctive quality of the those marks. Pennington began using the Pennington Sunburst Products Trade Dress in commerce in the United States after the MIRACLE-GRO Trade Dress became famous, which use has caused the dilution of the distinctive quality of the trade dress.

80. On information and belief, Pennington's unauthorized use of the Pennington Sunburst Products Marks are on goods of a lesser quality than those which Scotts' consumers are used to and has resulted in the tarnishing of Scotts' reputation and the reputation of the Scotts Marks.

81. Pennington's acts alleged herein were with full knowledge of Scotts' rights, title and interest in the Scotts Marks, and made with the willful intent to trade on the goodwill associated with those marks, to injure Scotts' reputation and with the intent to cause dilution of the Scotts Marks. Pennington's acts alleged herein were committed after the Scotts Marks became famous.

82. Pennington's acts alleged herein constitute dilution, tarnishment, blurring and disparagement of the Scotts Marks, and have diminished the value of those marks, in violation of 15 U.S.C. § 1125(c).

83. Pennington's wrongful conduct, unless and until enjoined and restrained by order of this Court, will cause great and irreparable injury to Scotts.

84. Scotts has no adequate remedy at law, and is entitled to injunctive relief prohibiting Defendants from using the QUIKGRO2X Mark, as well as the Pennington Sunburst Products Trade Dress or any marks confusingly similar to the Scotts Marks in connection with its goods and services.

85. As a direct and proximate result of Pennington's trademark dilution, Scotts has been damaged in an amount to be proved at trial.

86. The acts alleged herein constitute an exceptional case under 15 U.S.C. § 1117(a).

FIFTH CLAIM FOR RELIEF

Deceptive Trade Practices under Ohio Deceptive Trade

Practices Act (O.R.C. § 4165.01 *et seq.*)

87. Scotts repeats and realleges the allegations of paragraphs 1-87 as if fully set forth herein.

88. By use in commerce of the QUIKGRO2X Mark which is confusingly similar to the GRO Marks, Defendants have passed off their goods as those of Scotts.

89. By use in commerce of the Pennington Sunburst Products Trade Dress which is confusingly similar to the MIRACLE-GRO Trade Dress, Defendants have passed off their goods as those of Scotts.

90. Such use of the QUIKGRO2X Mark and the Pennington Sunburst Products Trade Dress in commerce has caused a likelihood of confusion or misunderstanding as to the source, sponsorship, approval or certification of Pennington's goods.

91. Such use of the QUIKGRO2X Mark and the Pennington Sunburst Products Trade Dress in commerce has caused likelihood of confusion or misunderstanding as to affiliation, connection or association with, or certification by, Scotts.

92. By use in commerce of the QUIKGRO2X Mark and the Pennington Sunburst Products Trade Dress in connection with goods and services identical or closely related to those offered by Scotts, Defendants have represented that their goods have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have.

93. By use in commerce of the QUIKGRO2X Mark and the Pennington Sunburst Products Trade Dress in connection with goods and services identical or closely related to those offered by Scotts, Defendants have represented that their goods are of a particular standard, quality, or grade, when this is in fact not the case.

94. Pennington's wrongful conduct is in violation of Ohio's Deceptive Trade Practices Act, Ohio Rev. Code § 4165.01 *et seq.*

95. Pennington's wrongful conduct, unless and until enjoined and restrained by order of this Court, will cause great and irreparable injury to Scotts.

96. Scotts has no adequate remedy at law and is entitled to injunctive relief prohibiting Defendants from using the QUIKGRO2X Mark and Pennington Sunburst Products Trade Dress pursuant to Ohio Rev. Code § 4165.03.

97. As a direct and proximate result of Pennington's trademark infringement, Scotts has been damaged in an amount to be proved at trial.

SIXTH CLAIM FOR RELIEF

State Common Law Trademark Infringement

98. Scotts repeats and realleges the allegations of paragraphs 1-98 as if fully set forth herein.

99. By use in commerce of the QUIKGRO2X Mark and the Pennington Sunburst Products Trade Dress in connection with goods and services identical or closely related to those offered by Scotts, Defendants have caused a likelihood of confusion or misunderstanding as to the source, sponsorship, approval, affiliation, connection or association of its goods and services with those of Plaintiffs.

100. Pennington's unauthorized use of QUIKGRO2X Mark and the Pennington Sunburst Products Trade Dress constitutes trademark infringement under the common law of the State of Ohio.

101. Defendants have acted willfully and with the intention and the likely result of confusing, misleading and deceiving customers.

102. By reason of Pennington's conduct, Scotts is suffering and will continue to suffer irreparable harm unless and until enjoined and restrained by order of this Court.

103. Scotts has no adequate remedy at law and is entitled to injunctive relief.

104. As a direct and proximate result of Pennington's trademark infringement, Scotts has been damaged in an amount to be proved at trial.

SEVENTH CLAIM FOR RELIEF

State Common Law Dilution

105. Scotts repeats and realleges the allegations of paragraphs 1-104 as if fully set forth herein.

106. Pennington's actions in using the QUIKGRO2X Mark and the Pennington Sunburst Products Trade Dress in connection with goods and services identical or closely related to those offered by Scotts have diluted and will continue to dilute the value of the Scotts Marks, and will tarnish the goodwill and high-quality reputation associated with these marks. Additionally, Pennington's actions have caused and will continue to cause a diminution of the "commercial magnetism" and/or selling power of Scotts' trademarks.

107. Pennington's unauthorized use of the QUIKGRO2X Mark and the Pennington Sunburst Products Trade Dress constitutes trademark dilution under the common law of the State of Ohio.

108. By reason of Pennington's conduct, Scotts is suffering and will continue to suffer irreparable harm unless and until enjoined and restrained by order of this Court.

109. Scotts has no adequate remedy at law and is entitled to injunctive relief.

110. As a direct and proximate result of Pennington's trademark infringement, Scotts has been damaged in an amount to be proved at trial.

EIGHTH CLAIM FOR RELIEF

Common Law Unfair Competition

111. OMS repeats and realleges the allegations of paragraphs 1-110 as if fully set forth herein.

112. Pennington's goods are so marked, made up and described by it as to be calculated to mislead ordinary purchasers and lead them to mistake Pennington's goods for the

goods of Scotts. Additionally, Pennington's conduct consists of representations by it for the purpose of deceiving the public that its goods are those of Scotts.

113. Pennington's wrongful conduct alleged herein has proximately caused and will continue to cause Scotts substantial injury, including loss of customers, dilution of its goodwill, confusion of potential customers, injury to its reputation, and diminution in value of its intellectual property.

114. Pennington's wrongful conduct alleged herein constitute unfair and unlawful practices in violation of the common law of the State of Ohio to the injury of Scotts and the public.

115. Pennington's conduct has damaged Scotts in an amount to be determined at trial, and unless restrained, will cause great and irreparable injury to Scotts.

116. Scotts has no adequate remedy at law and is entitled to an injunction restraining Defendants, their officers, directors, employees and agents, and all persons acting in concert with Defendants, from engaging in further such unlawful conduct.

117. As a direct and proximate result of Pennington's actions, Scotts is entitled to restitution of those amounts unlawfully obtained by Pennington's wrongful conduct.

NINTH CLAIM FOR RELIEF

Unjust Enrichment

118. Scotts repeats and realleges the allegations of paragraphs 1-117 as if fully set forth herein.

119. Scotts has made a substantial investment of time, money and effort in promoting its products and services under the Scotts Marks. These marks have become assets of substantial value and symbols of Scotts' goodwill.

120. By willfully infringing on the Scotts Marks, by intentionally misleading customers as to the products Defendants are selling, and by falsely advertising the products they are selling, Defendants have received a benefit in that they have received business actually intended for Scotts, and as such, Pennington's actions constitute an unjust enrichment to them.

121. Pennington has used the QUIKGRO2X Mark, a mark that is confusingly similar to Scotts GRO Marks and the Pennington Sunburst Product Trade Dress, a trade dress that is confusingly similar to Scotts' MIRACLE-GRO Trade Dress. Defendants have knowingly and willfully received a benefit which in justice and equity belongs to Scotts.

122. It will be unjust and inequitable for Defendants to benefit from their use of the QUIKGRO2X Mark or the Pennington Sunburst Product Trade Dress without payment and/or reimbursement to Scotts.

123. By reason of Pennington's conduct, Scotts is suffering and will continue to suffer irreparable harm unless and until enjoined and restrained by order of this Court.

124. As a direct and proximate result of Pennington's actions, Scotts is entitled to restitution of those amounts by which Defendants were unjustly enriched through their wrongful conduct.

TENTH CLAIM FOR RELIEF

Declaratory Relief Under 28 U.S.C. §§ 2201 and 2202

125. Scotts repeats and realleges the allegations of paragraphs 1-124 as if fully set forth herein.

126. There is a direct and actual controversy between the parties, in that Pennington claims that Scotts is not entitled to registration of Scotts' WATER SMART Marks and intends to

attempt to stop Scotts' use of its WATER SMART Marks and Scotts denies Pennington's claims. For a variety of reasons Scotts is entitled to use and register the WATER SMART Marks.

127. Pennington's claims present an actual, substantial and immediate controversy that requires adjudication by the Court so that the parties know their rights, liabilities, status, and other legal rights.

REQUEST FOR RELIEF

WHEREFORE, Scotts requests that judgment be entered in its favor and against Defendants as follows:

1. Ordering that judgment be entered for Scotts and against Defendants on all claims alleged herein.
2. Ordering that:
 - a. Pursuant to 15 U.S.C. §§ 1116 and 1125(c), Ohio Rev. Code § 4165.03, Ohio Rev. Code § 1336.01 *et seq.* and/or state common law, Defendants and their agents, affiliates, employees, and all persons in active concert or participation with them, are enjoined and restrained from directly or indirectly (i) using, promoting, marketing, advertising, distributing, or selling any good or service bearing or under any of the QUIKGRO2X Mark or any mark confusingly similar to the Scotts Marks, or any other designation that infringes or dilutes the Scotts Marks in any manner; (ii) using, promoting, marketing, advertising, distributing, or selling any good or service featuring the MIRACLE-GRO Trade Dress, any trade dress confusingly similar thereto, or any other designation that infringes or dilutes the MIRACLE-GRO Trade Dress; and (iii) from continuing any and all of the acts of unfair competition and unfair business practices alleged herein; and
 - b. Pursuant to 15 U.S.C. § 1118, that all labels, signs, prints, business cards, stationery, packages, wrappers, receptacles, websites, promotional materials, brochures, manuals, educational materials, and advertisements bearing (i) the QUIKGRO2X Mark or any mark

confusingly similar to the Scotts Marks, (ii) the MIRACLE-GRO Trade Dress or any other trade dress that is confusingly similar thereto, or any other designation that infringes or dilutes the MIRACLE-GRO Trade Dress in any manner, including that currently used on the Pennington Sunburst Products; and (iii) any other designation that infringes or dilutes the Scotts Marks in any manner, be delivered up and destroyed;

c. Defendants and their agents, affiliates, employees, and all persons in active concert or participation with them are enjoined and restrained from engaging in further acts which constitute unlawful, deceptive, and unfair business practices;

d. The QUIKGRO2X Mark is confusingly similar to and dilutive of the Scotts Marks, and are thus not entitled to registration by the USPTO;

e. The trade dress used on the Pennington Sunburst Products is confusingly similar to and dilutive of the MIRACLE-GRO Trade Dress;

f. Defendants voluntarily abandon United States Trademark Application Serial No. 77/640,115 for QUIKGRO2X; and

g. Defendants shall file with the Court and serve on Plaintiff, within fifteen (15) days after service of the Court's injunction and/or judgment as requested herein, a report in writing under oath setting forth the detail the manner and form in which Defendants have complied with the Court's injunction and/or judgment.

3. Declaring this case is an exceptional case under 15 U.S.C. § 1117(a).

4. Ordering that Defendants provide an accounting to Scotts for any and all gains, profits, and benefits derived from Pennington's wrongful acts complained of herein, and for all damages sustained by Scotts by reason of Pennington's wrongful acts complained of herein, and that such amounts be deemed to be held in constructive trust for Scotts.

5. A declaration under 28 U.S.C. §§ 2201 and 2202 that (i) Scotts is entitled to registration of the WATER SMART Marks as exemplified in United States Trademark Application Serial Numbers 77/392,595, 77/238,879, and 77/323,047; (ii) Scotts is entitled to use the WATER SMART Marks exemplified in United States Trademark Application Serial

Numbers 77/392,595, 77/238,879, and 77/323,047 and United States Trademark Registration Number 3,477,872 in commerce

6. Awarding Scotts:

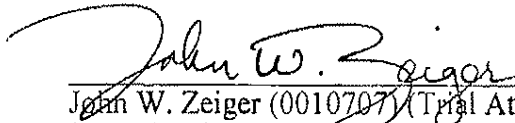
- a. All profits derived from Pennington's wrongful acts complained of herein;
- b. All damages sustained by reason of Pennington's wrongful acts complained of herein, including those available under 15 U.S.C. § 1117;
- c. Treble the amount of Pennington's profits or actual damages suffered by Plaintiff under 15 U.S.C. § 1117;
- d. Reasonable costs and attorneys' fees pursuant to 15 U.S.C. § 1117(a) and/or state law, or in the alternative, reasonable costs and attorneys' fees on equitable grounds;
- e. Restitution for Pennington's unfair business practices;
- f. Punitive and exemplary damages against Defendants and in favor of Plaintiff in an amount sufficient to deter and punish Defendants for their willful and wrongful acts;
- g. Pre-judgment and post-judgment interest; and
- h. Such other and further relief as this Court deems just and proper.

Dated: June 10, 2009

Respectfully submitted,

THE SCOTTS COMPANY, LLC

By its attorneys:


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OMS Investments, Inc. and The Scotts Company LLC

Of counsel:

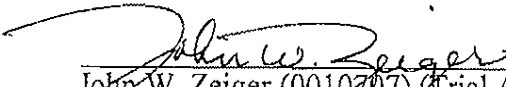
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Co-counsel for Plaintiffs OMS Investments, Inc.
and The Scotts Company LLC

DEMAND FOR JURY TRIAL

Plaintiff OMS demands a trial by jury of all issues triable by a jury.


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Trial Attorney for Plaintiffs OMS Investments, Inc.
and The Scotts Company LLC

640-264:193386

EXHIBIT 1

United States Patent Office

668,868
Registered Oct. 28, 1958

PRINCIPAL REGISTER Trademark

Ser. No. 46,856, filed Feb. 28, 1958

MIRACLE-GRO

Stern's Nurseries, Inc. (New York corporation), doing
business as Stern's Nurseries
404 William St.
Geneva, N. Y.

For: WATER SOLUBLE PLANT FOOD, in CLASS
10.
First use Apr. 15, 1951; in commerce Apr. 15, 1951.

Int. Cl.: 1

Prior U.S. Cl.: 10

United States Patent and Trademark Office

Reg. No. 1,223,038

Registered Jan. 11, 1983

TRADEMARK
Principal Register

MIRACLE-GRO

Stern's Nurseries, Inc. (New York corporation)
607 Washington St.
Geneva, N.Y. 14456

For: FERTILIZER IN THE FORM OF SPIKES
FOR TREES AND SHRUBS, in CLASS 1 (U.S. Cl.
10).

First use Oct. 1, 1980; in commerce Oct. 1, 1980.

Owner of U.S. Reg. Nos. 668,868, 1,141,943 and
others.

Ser. No. 283,281, filed Oct. 24, 1980.

JILL E. JOHNSON, Examining Attorney

Int. Cl.: 31

Prior U.S. Cl.: 1

United States Patent and Trademark Office **Reg. No. 1,378,337**
Registered Jan. 14, 1986

TRADEMARK
PRINCIPAL REGISTER

EARTHGRO

EARTHGRO, INC. (CONNECTICUT CORPORATION)
ROUTE 207 - P.O. BOX 143
LEBANON, CT 06249

FIRST USE 8-0-1981; IN COMMERCE
8-0-1981.

SER. NO. 548,581, FILED 7-17-1985.

FOR: TOP SOIL AND PEAT HUMUS, IN
CLASS 31 (U.S. CL. 1).

FRED MANDIR, EXAMINING ATTORNEY

Int. Cl.: 1

Prior U.S. Cls.: 1 and 10

United States Patent and Trademark Office

Reg. No. 1,378,721
Registered Jan. 21, 1986

**TRADEMARK
PRINCIPAL REGISTER**

EARTHGRO

EARTHGRO, INC. (CONNECTICUT CORPORATION)
ROUTE 207 - P. O. BOX 143
LEBANON, CT 06249

POTTING SOIL, IN CLASS 1 (U.S. CLS. 1 AND 10).
FIRST USE 8-0-1981; IN COMMERCE 8-0-1981.

FOR: COW MANURE, COMPOSTED COW MANURE, DEHYDRATED COW MANURE,

SER. NO. 548,582, FILED 7-17-1985.
FRED MANDIR, EXAMINING ATTORNEY

Int. Cl.: 1

Prior U.S. Cls.: 1, 6 and 10

United States Patent and Trademark Office

Reg. No. 1,723,116

Registered Oct. 13, 1992

TRADEMARK
PRINCIPAL REGISTER



EARTHGRO, INC. (CONNECTICUT CORPORATION)
ROUTE 207
LEBANON, CT 06249

FOR: NATURAL ORGANIC AND MINERAL
FERTILIZER FOR LAWN AND GARDEN USE,
AGRICULTURAL USE AND COMMERCIAL
USE; COW MANURE, COMPOSTED COW
MANURE, DEHYDRATED COW MANURE,

POTTING SOIL AND HUMUS, IN CLASS 1 (U.S.
CLS. 1, 6 AND 10).

FIRST USE 9-1-1991; IN COMMERCE
1-2-1992.

OWNER OF U.S. REG. NOS. 1,378,337,
1,378,721, AND 1,403,628.

SER. NO. 74-248,033, FILED 2-20-1992.

DONNA MIRMAN, EXAMINING ATTORNEY

Int. Cl.: 31

Prior U.S. Cl.: 1

United States Patent and Trademark Office

Reg. No. 1,726,060

Registered Oct. 20, 1992

TRADEMARK
PRINCIPAL REGISTER



EARTHGRO, INC. (CONNECTICUT CORPORATION)
ROUTE 207
LEBANON, CT 06249

OWNER OF U.S. REG. NOS. 1,378,337,
1,378,721, AND 1,403,628.

FOR: TOP SOIL, IN CLASS 31 (U.S. CL. 1).
FIRST USE 9-1-1991; IN COMMERCE
1-2-1992.

SER. NO. 74-248,367, FILED 2-21-1992.

DONNA MIRMAN, EXAMINING ATTORNEY

Int. Cl.: 31

Prior U.S. Cls.: 1 and 46

United States Patent and Trademark Office

Reg. No. 2,235,973

Registered Mar. 30, 1999

**TRADEMARK
PRINCIPAL REGISTER**

MIRACLE-GRO

SCOTT'S MIRACLE-GRO PRODUCTS, INC.
(OHIO CORPORATION)
800 PORT WASHINGTON BLVD.
PORT WASHINGTON, NY 11050 BY ASSIGNEE
OF STERN'S NURSERIES, INC. (NEW YORK
CORPORATION) PORT WASHINGTON, NY
11050

FOR: FLOWER, VEGETABLE AND PLANT
SEEDS FOR DOMESTIC AND AGRICULTUR-

AL PURPOSES, IN CLASS 31 (U.S. CLS. 1 AND
46).

FIRST USE 1-0-1998; IN COMMERCE
1-0-1998.

OWNER OF U.S. REG. NOS. 668,860 AND
1,223,038.

SN 74-596,862, FILED 11-9-1994.

JOYCE A. WARD, EXAMINING ATTORNEY

Int. Cl.: 1

Prior U.S. Cls.: 1, 5, 6, 10, 26, and 46

United States Patent and Trademark Office

Reg. No. 2,601,682

Registered July 30, 2002

TRADEMARK
PRINCIPAL REGISTER

MIRACLE-GRO POUR & FEED

OMS INVESTMENTS, INC. (DELAWARE COR-
PORATION)
1105 NORTH MARKET STREET
WILMINGTON, DE 19899

FIRST USE 3-4-2002; IN COMMERCE 3-4-2002.

SN 75-751,306, FILED 6-29-1999.

FOR: FERTILIZER FOR HOME AND GARDEN
USE, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

CAROLYN GRAY, EXAMINING ATTORNEY

Int. Cls.: 1 and 5

Prior U.S. Cls.: 1, 5, 6, 10, 18, 26, 44, 46, 51, and 52

United States Patent and Trademark Office

Reg. No. 2,618,698

Registered Sep. 10, 2002

**TRADEMARK
PRINCIPAL REGISTER**

MIRACLE-GRO GARDEN WEED PREVENTER & PLANT FOOD

OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
1105 NORTH MARKET STREET
WILMINGTON, DE 19899

OWNER OF U.S. REG. NOS. 1,842,586, 2,345,472,
AND OTHERS.

FOR: FERTILIZERS FOR DOMESTIC USE, IN
CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "GARDEN WEED PREVENTER &
PLANT FOOD", APART FROM THE MARK AS
SHOWN.

FIRST USE 3-1-2001; IN COMMERCE 3-1-2001.

FOR: HERBICIDES FOR DOMESTIC USE, IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

SN 76-027,637. FILED 4-14-2000.

FIRST USE 3-1-2001; IN COMMERCE 3-1-2001.

FRED MANDIR, EXAMINING ATTORNEY

Int. Cls.: 1 and 5

Prior U.S. Cls.: 1, 5, 6, 10, 18, 26, 44, 46, 51, and 52

United States Patent and Trademark Office

Reg. No. 2,618,699

Registered Sep. 10, 2002

TRADEMARK
PRINCIPAL REGISTER

MIRACLE-GRO GARDEN WEED PREVENTER

OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
1105 NORTH MARKET STREET
WILMINGTON, DE 19899

OWNER OF U.S. REG. NOS. 1,842,586, 2,345,472,
AND OTHERS.

FOR: FERTILIZERS FOR DOMESTIC USE, IN
CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "GARDEN WEED PREVENTER",
APART FROM THE MARK AS SHOWN.

FIRST USE 3-1-2001; IN COMMERCE 3-1-2001.

FOR: HERBICIDES FOR DOMESTIC USE, IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

SN 76-027,638, FILED 4-14-2000.

FIRST USE 3-1-2001; IN COMMERCE 3-1-2001.

FRED MANDIR, EXAMINING ATTORNEY

Int. Cl.: 31

Prior U.S. Cls.: 1 and 46

United States Patent and Trademark Office

Reg. No. 2,723,181

Registered June 10, 2003

TRADEMARK
PRINCIPAL REGISTER



OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
C/O DELAWARE CORPORATE MANAGEMENT
1105 NORTH MARKET STREET
WILMINGTON, DE 19899

FOR: LIVE PLANTS AND CONTAINERS THEREFOR, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 3-5-2001; IN COMMERCE 3-5-2001.

OWNER OF U.S. REG. NOS. 668,868, 2,345,472 AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SELECT PLANTS", APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF THE WORDS "MIRACLE-GRO SELECT PLANTS" AND DESIGN CLAIMING THE COLORS GREEN AND YELLOW. THE GREEN BAND APPEARS IN THE TOP PORTION OF THE MARK AND THE YELLOW BAND ON THE BOTTOM.

SER. NO. 76-222,208. FILED 3-9-2001.

CAROLYN GRAY, EXAMINING ATTORNEY

Int. Cl.: 44

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,758,533

Registered Sep. 2, 2003

SERVICE MARK
PRINCIPAL REGISTER



Professional
Tree & Shrub Care

OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
100 WILSHIRE BOULEVARD, SUITE 1230
SANTA MONICA, CA 90401

OWNER OF U.S. REG. NOS. 2,235,973, 2,345,472
AND OTHERS.

FOR: LAWN, TREE AND SHRUB CARE, LANDSCAPE GARDENING SERVICES AND CONSULTING SERVICES IN THE FIELD OF LAWN, TREE AND SHRUB CARE AND LANDSCAPE GARDENING, IN CLASS 44 (U.S. CLS. 100 AND 101).

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "PROFESSIONAL TREE & SHRUB CARE", APART FROM THE MARK AS SHOWN.

SER. NO. 76-448,756, FILED 9-12-2002.

FIRST USE 1-31-1998; IN COMMERCE 1-31-1998.

ESTHER BELENKER, EXAMINING ATTORNEY

Int. Cl.: 1

Prior U.S. Cls.: 1, 5, 6, 10, 26, and 46

United States Patent and Trademark Office

Reg. No. 2,787,356

Registered Nov. 25, 2003

TRADEMARK
PRINCIPAL REGISTER

MIRACLE-GRO FAST ROOT

OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
C/O DELAWARE CORPORATE MANAGEMENT
100 WILSHIRE BLVD. SUITE 1230
SANTA MONICA, CA 90401

FOR: ROOT STIMULATING HORMONE THAT
CONVERTS PLANT CELLS TO STEM CELLS, IN
CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46)

FIRST USE 1-31-2003; IN COMMERCE 1-31-2003.

OWNER OF U.S. REG. NOS. 668,868, 2,345,472,
AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "ROOT", APART FROM THE MARK
AS SHOWN.

SN 76-405,603, FILED 5-10-2002.

CAROLYN GRAY, EXAMINING ATTORNEY

Int. Cl.: 44

Prior U.S. Cls.: 100 and 101

United States Patent and Trademark Office

Reg. No. 2,809,982

Registered Feb. 3, 2004

**SERVICE MARK
PRINCIPAL REGISTER**

MIRACLE-GRO TREE & SHRUB CARE

OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
100 WILSHIRE BOULEVARD, SUITE 1230
SANTA MONICA, CA 90401

OWNER OF U.S. REG. NOS. 1,223,038, 2,345,472
AND OTHERS.

FOR: LAWN, TREE AND SHRUB CARE, LANDSCAPE GARDENING SERVICES AND CONSULTING SERVICES IN THE FIELD OF LAWN, TREE AND SHRUB CARE AND LANDSCAPE GARDENING, IN CLASS 44 (U.S. CLS. 100 AND 101).

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "TREE & SHRUB CARE". APART FROM THE MARK AS SHOWN.

SER. NO. 76-448.805, FILED 9-12-2002.

FIRST USE 1-31-1998; IN COMMERCE 1-31-1998.

WANDA KAY PRICE, EXAMINING ATTORNEY

Int. Cls.: 21 and 31

Prior U.S. Cls.: 1, 2, 13, 23, 29, 30, 33, 40, 46 and 50

United States Patent and Trademark Office

Reg. No. 2,816,031

Registered Feb. 24, 2004

**TRADEMARK
PRINCIPAL REGISTER**



OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
C/O DELAWARE CORPORATE MANAGEMENT
1105 NORTH MARKET STREET
WILMINGTON, DE 19899

FIRST USE 3-5-2001; IN COMMERCE 3-5-2001.

OWNER OF U.S. REG. NOS. 668,868, 2,345,472 AND OTHERS.

FOR: CONTAINERS NOT OF METAL FOR USE WITH PLANTS AND FOR COMMERCIAL USE, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SELECT PLANTS", APART FROM THE MARK AS SHOWN.

FIRST USE 3-5-2001; IN COMMERCE 3-5-2001.

SER. NO. 76-221,700, FILED 3-7-2001.

FOR: LIVE PLANTS, IN CLASS 31 (U.S. CLS. 1 AND 46).

CAROLYN GRAY, EXAMINING ATTORNEY

Int. Cls.: 1, 5, 21 and 31

Prior U.S. Cls.: 1, 2, 5, 6, 10, 13, 18, 23, 26, 29, 30, 33,
40, 44, 46, 50, 51 and 52

Reg. No. 2,820,953

United States Patent and Trademark Office

Registered Mar. 9, 2004

TRADEMARK
PRINCIPAL REGISTER



OMS INVESTMENTS, INC. (DELAWARE COR-
PORATION)
100 WILSHIRE BLVD
SUITE 1230
SANTA MONICA, CA 90401

FOR: FERTILIZERS FOR DOMESTIC USE;
PLANT FOOD; GARDEN SOIL; POTTING MIX;
SEED STARTER MIX FOR DOMESTIC USE; ROOT
STIMULATING HORMONE THAT CONVERTS
PLANT CELLS TO STEM CELLS, IN CLASS 1 (U.S.
CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 1-0-1997; IN COMMERCE 1-0-1997.

FOR: HERBICIDES FOR DOMESTIC USE, IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 0-0-2000; IN COMMERCE 0-0-2000.

FOR: GARDEN FEEDERS, NAMELY, CONTAIN-
ERS DESIGNED TO HOLD PLANT FOOD AND ARE

USED TO FEED AND WATER PLANTS, IN CLASS 21
(U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 12-31-2000; IN COMMERCE 12-31-2000.

FOR: SPHAGNUM PEAT MOSS, IN CLASS 31 (U.S.
CLS. 1 AND 46).

FIRST USE 1-0-2001; IN COMMERCE 1-0-2001.

OWNER OF U.S. REG. NOS. 668,868, 2,618,699 AND
OTHERS.

THE MARK CONSISTS OF THE WORD "MIRA-
CLE-GRO" IN A BULLSEYE LOGO WITH A GREEN
LEAF DOTTING THE "I" IN "MIRACLE-GRO" AND
A YELLOW RING IN THE BULLSEYE.

SER. NO. 76-496,455, FILED 3-4-2003.

EDWARD NELSON, EXAMINING ATTORNEY

Int. Cls.: 1, 5, 21 and 31

Prior U.S. Cls.: 1, 2, 5, 6, 10, 13, 18, 23, 26, 29, 30, 33,
40, 44, 46, 50, 51 and 52

United States Patent and Trademark Office

Reg. No. 2,822,655

Registered Mar. 16, 2004

TRADEMARK
PRINCIPAL REGISTER



OMS INVESTMENTS, INC. (DELAWARE COR-
PORATION)
100 WILSHIRE BLVD
SUITE 1230
SANTA MONICA, CA 90401

FOR: FERTILIZERS FOR DOMESTIC USE;
PLANT FOOD; GARDEN SOIL; POTTING MIX;
SEED STARTER MIX FOR DOMESTIC USE; ROOT
STIMULATING HORMONE THAT CONVERTS
PLANT CELLS TO STEM CELLS, IN CLASS 1 (U.S.
CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 1-0-1997; IN COMMERCE 1-0-1997.

FOR: HERBICIDES FOR DOMESTIC USE, IN
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 0-0-2000; IN COMMERCE 0-0-2000.

FOR: GARDEN FEEDERS, NAMELY CONTAIN-
ERS DESIGNED TO HOLD PLANT FOOD AND ARE

USED TO FEED AND WATER PLANTS, IN CLASS 21
(U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 12-31-2000; IN COMMERCE 12-31-2000.

FOR: SPHAGNUM PEAT MOSS, IN CLASS 31 (U.S.
CLS. 1 AND 46).

FIRST USE 1-0-2001; IN COMMERCE 1-0-2001.

OWNER OF U.S. REG. NOS. 668,868, 2,618,699 AND
OTHERS.

THE MARK CONSISTS OF THE WORD "MIRA-
CLE-GRO" IN A BULLSEYE LOGO WITH A LEAF
DOTTING THE "I" IN "MIRACLE-GRO" AND A
RING IN THE BULLSEYE.

SER. NO. 76-496,458, FILED 3-4-2003.

EDWARD NELSON, EXAMINING ATTORNEY

Int. Cl.: 21

Prior U.S. Cls.: 2, 13, 23, 29, 30, 33, 40, and 50

Reg. No. 2,856,922

United States Patent and Trademark Office

Registered June 22, 2004

**TRADEMARK
PRINCIPAL REGISTER**

MIRACLE-GRO

OMS INVESTMENTS, INC. (DELAWARE COR-
PORATION)
100 WILSHIRE BOULEVARD
SANTA MONICA, CA 90401

OWNER OF U.S. REG. NOS. 668,868, 2,618,699,
AND OTHERS.

FOR: FLOWER POTS AND PLANTERS, IN CLASS
21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

SN 78-201,924, FILED 1-10-2003.

FIRST USE 1-15-2004; IN COMMERCE 1-15-2004.

EDWARD NELSON, EXAMINING ATTORNEY

Int. Cl.: 21

Prior U.S. Cls.: 2, 13, 23, 29, 30, 33, 40, and 50

United States Patent and Trademark Office

Reg. No. 2,856,923

Registered June 22, 2004

**TRADEMARK
PRINCIPAL REGISTER**



OMS INVESTMENTS, INC. (DELAWARE CORPORATION)

100 WILSHIRE BOULEVARD
SANTA MONICA, CA 90401

FOR: FLOWER POTS AND PLANTERS, IN CLASS
21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 1-15-2004; IN COMMERCE 1-15-2004

OWNER OF U.S. REG. NOS. 668,868, 2,618,699,
AND OTHERS.

THE MARK CONSISTS OF THE WORDS "MIRACLE-GRO" IN A BULLS-EYE LOGO. A STYLIZED LEAF FORMS THE DOT IN THE LETTER "I".

SN 78-201,990, FILED 1-10-2003.

EDWARD NELSON, EXAMINING ATTORNEY

Int. Cls.: 21 and 31

Prior U.S. Cls.: 1, 2, 13, 23, 29, 30, 33, 40, 46, and 50

United States Patent and Trademark Office

Reg. No. 2,856,924

Registered June 22, 2004

TRADEMARK
PRINCIPAL REGISTER



OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
100 WILSHIRE BOULEVARD
SANTA MONICA, CA 90401

OWNER OF U.S. REG. NOS. 668,868, 2,618,699,
AND OTHERS.

FOR: WATERING CANS, IN CLASS 21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

THE MARK CONSISTS OF THE WORDS "MIRACLE-GRO" IN A BULLS-EYE LOGO. A STYLIZED LEAF FORMS THE DOT IN THE LETTER "I".

FIRST USE 3-31-2003; IN COMMERCE 3-31-2003.

FOR: FLOWER, VEGETABLE AND PLANT SEEDS, IN CLASS 31 (U.S. CLS. 1 AND 46).

SN 78-202,294, FILED 1-11-2003.

FIRST USE 12-31-2003; IN COMMERCE 12-31-2003.

EDWARD NELSON, EXAMINING ATTORNEY

Int. Cls.: 1 and 16

Prior U.S. Cls.: 1, 2, 5, 6, 10, 22, 23, 26, 29, 37, 38, 46
and 50

Reg. No. 2,870,768

United States Patent and Trademark Office

Registered Aug. 10, 2004

**TRADEMARK
PRINCIPAL REGISTER**

HAVE YOU USED MIRACLE-GRO LATELY?

OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
C/O DELAWARE CORPORATE MANAGEMENT
1105 NORTH MARKET STREET
WILMINGTON, DE 19899

FOR: LAWN AND GARDEN FERTILIZER FOR DOMESTIC USE; PLANT FOOD; FERTILIZER IN THE FORM OF SPIKES FOR HOUSEPLANTS, OUTDOOR PLANTS, TREES, AND SHRUBBERY FOR DOMESTIC USE; PEAT FERTILIZER; COMPOSTS; HUMUS; LOAM; MANURE; POTTING SOIL, SOIL CONDITIONERS, SOIL AMENDMENTS, GROWING MEDIA FOR PLANTS, ALL FOR DOMESTIC USE, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 2-1-2002; IN COMMERCE 2-1-2002.

FOR: BROCHURES ABOUT SUBJECTS OF LAWN CARE AND LANDSCAPE GARDENING AND THE USE OF PRODUCTS RELATING TO LAWN CARE AND LANDSCAPE GARDENING, INCLUDING FERTILIZERS, HERBICIDES, FUNGICIDES, INSECTICIDES, GRASS SEED, FLOWER SEEDS, GARDEN SEEDS, PLANT FOOD, POTTING SOIL, SOIL CONDITIONERS AND AMENDMENTS, GROUND COVER, AND LAWN AND GARDEN EQUIPMENT AND ADVICES AND INFORMATION RELATED TO FLOWERS AND THEIR CARE, IN CLASS 16 (U.S. CLS. 2, 5, 22, 23, 29, 37, 38 AND 50).

FIRST USE 4-1-2002; IN COMMERCE 4-1-2002.

SER. NO. 75-982,919. FILED 11-29-2001.

TONI HICKEY, EXAMINING ATTORNEY

Int. Cl.: 31

Prior U.S. Cls.: 1 and 46

United States Patent and Trademark Office

Reg. No. 2,900,658

Registered Nov. 2, 2004

TRADEMARK
PRINCIPAL REGISTER



OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
10250 CONSTELLATION PLACE, SUITE 2800
LOS ANGELES, CA 90067

FOR: LIVING HOUSE PLANTS, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 3-0-2003; IN COMMERCE 3-0-2003.

OWNER OF U.S. REG. NOS. 2,525,828, 2,618,699, AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SELECT PLANTS", APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF THE WORDS "MIRACLE-GRO" WITH AN ARBITRARY DESIGN IN GREEN APPEARING OVER THE LETTER "I" SUPERIMPOSED ON A CIRCLE WITH A YELLOW BORDER, "SELECT PLANTS" APPEARING ON A PURPLE RIBBON WITH REPRESENTATION OF A FLOWERS IN RED, PINK, PURPLE AND A RED TOMATO, ALL APPEARING ON A GREEN AND YELLOW BACKGROUND.

SN 78-179,743, FILED 10-29-2002.

VIVIAN MICZNIK FIRST, EXAMINING ATTORNEY

Int. Cl.: 31

Prior U.S. Cls.: 1 and 46

United States Patent and Trademark Office

Reg. No. 2,906,855

Registered Nov. 30, 2004

TRADEMARK
PRINCIPAL REGISTER



OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
10250 CONSTELLATION BOULEVARD, SUITE 2800
LOS ANGELES, CA 90067

FOR: LIVE PLANTS, IN CLASS 31 (U.S. CLS. 1 AND 46).

FIRST USE 3-5-2001; IN COMMERCE 3-5-2001.

OWNER OF U.S. REG. NOS. 668,868, 1,051,605, AND 1,223,038.

THE MARK CONSISTS OF THE WORDS MIRACLE-GRO IN A BULLS-EYE LOGO WITH A LEAF DOTTING THE LETTER "I" A RING IN THE BULLS-EYE.

SER. NO. 78-349,217, FILED 1-8-2004.

ZACHARY BELLO, EXAMINING ATTORNEY

Int. Cl.: 31

Prior U.S. Cls.: 1 and 46

United States Patent and Trademark Office

Reg. No. 2,906,856

Registered Nov. 30, 2004

**TRADEMARK
PRINCIPAL REGISTER**



OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
10250 CONSTELLATION BOULEVARD
SUITE 2800
LOS ANGELES, CA 90067

THE COLOR(S) THE WORDS MIRACLE-GRO IN A BULLS-EYE LOGO WITH A GREEN LEAF DOTTING THE "I" AND A YELLOW RING IN THE BULLS-EYE IS/ARE CLAIMED AS A DISTINCTIVE FEATURE OF THE MARK.

FOR: LIVE PLANTS, IN CLASS 31 (U.S. CLS. 1 AND 46).

SER. NO. 78-349,226, FILED 1-8-2004.

FIRST USE 3-5-2001; IN COMMERCE 3-5-2001.

ZACHARY BELLO, EXAMINING ATTORNEY

Int. Cl.: 1

Prior U.S. Cls.: 1, 5, 6, 10, 26 and 46

United States Patent and Trademark Office

Reg. No. 2,935,663

Registered Mar. 29, 2005

TRADEMARK
PRINCIPAL REGISTER



OMS INVESTMENTS, INC. (DELAWARE CORPORATION)

1105 NORTH MARKET STREET

WILMINGTON, DE 19899

FOR: POTTING SOIL, GROWING MEDIA FOR PLANTS, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 12-15-2000; IN COMMERCE 12-15-2000.

OWNER OF U.S. REG. NOS. 1,051,605, 2,533,745 AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE POTTING MIX CONTAINS, APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF THE WORDS MIRACLE-GRO MOISTURE CONTROL WITH AN ARBITRARY DESIGN ON A LABEL.

SEC. 2(F) AS TO MOISTURE CONTROL.

SER. NO. 75-981,470, FILED 10-18-2000.

DORITT L. CARROLL, EXAMINING ATTORNEY

Int. Cls.: 9 and 21

Prior U.S. Cls.: 2, 13, 21, 23, 26, 29, 30, 33, 36, 38, 40,
and 50

Reg. No. 2,996,098

United States Patent and Trademark Office

Registered Sep. 13, 2005

TRADEMARK
PRINCIPAL REGISTER



OMS INVESTMENTS, INC. (DELAWARE COR-
PORATION)
10250 CONSTELLATION BLVD., SUITE 2800
LOS ANGELES, CA 90067

FIRST USE 3-31-2005; IN COMMERCE 3-31-2005.

FOR: PROTECTIVE WORK GLOVES. IN CLASS 9
(U.S. CLS. 21, 23, 26, 36 AND 38).

OWNER OF U.S. REG. NOS. 1,223,038, 2,820,953,
AND OTHERS.

FIRST USE 3-31-2005; IN COMMERCE 3-31-2005.

THE MARK CONSISTS OF THE WORDS MIRA-
CLE-GRO IN SPECIAL FORM WITHIN A CIRCLE
AND AN ARBITRARY LOGO.

FOR: GARDENING GLOVES AND GARDENING
GLOVES FOR HANDLING CHEMICALS. IN CLASS
21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

SN 78-464,646, FILED 8-9-2004.

JOHN HWANG, EXAMINING ATTORNEY

Int. Cls.: 9 and 21

Prior U.S. Cls.: 2, 13, 21, 23, 26, 29, 30, 33, 36, 38, 40,
and 50

Reg. No. 3,074,660

United States Patent and Trademark Office

Registered Mar. 28, 2006

TRADEMARK
PRINCIPAL REGISTER

MIRACLE-GRO

OMS INVESTMENTS, INC. (DELAWARE COR-
PORATION)
10250 CONSTELLATION BLVD., SUITE 2800
LOS ANGELES, CA 90067

FOR: PROTECTIVE WORK GLOVES, IN CLASS 9
(U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 3-31-2005; IN COMMERCE 3-31-2005.

FOR: GARDENING GLOVES AND GARDENING
GLOVES FOR HANDLING CHEMICALS, IN CLASS
21 (U.S. CLS. 2, 13, 23, 29, 30, 33, 40 AND 50).

FIRST USE 3-31-2005; IN COMMERCE 3-31-2005.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

OWNER OF U.S. REG. NOS. 1,323,038, 2,820,953,
AND OTHERS.

SN 78-464,648, FILED 8-9-2004.

JOHN HWANG, EXAMINING ATTORNEY

Int. Cl.: 1

Prior U.S. Cls.: 1, 5, 6, 10, 26 and 46

United States Patent and Trademark Office

Reg. No. 3,156,217

Registered Oct. 17, 2006

TRADEMARK
PRINCIPAL REGISTER



OMS INVESTMENTS, INC. (DELAWARE CORPORATION)

10250 CONSTELLATION BLVD., SUITE 2800
LOS ANGELES, CA 90067

FOR: GARDEN SOIL, PLANTING SOIL, SOIL CONTAINING ADDITIVES, CHEMICAL SOIL CONDITIONERS, SOIL CONDITIONERS FOR AGRICULTURAL, DOMESTIC OR HORTICULTURAL USE AND FERTILIZERS FOR SOIL AND POTTING SOIL, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 1-1-2005; IN COMMERCE 1-1-2005.

OWNER OF U.S. REG. NOS. 688,868, 2,822,655 AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE GARDEN SOIL; ROSES; BONE MEAL ADDED TO GROW BIG BEAUTIFUL BLOOMS, AND TIERRA PARA EL JARDIN, APART FROM THE MARK AS SHOWN.

THE PERSON PORTRAYED IN THE MARK IDENTIFIES A LIVING INDIVIDUAL WHOSE CONSENT IS OF RECORD.

THE COLOR(S) RED, PINK, YELLOW, GREEN, BLACK AND WHITE IS/ARE CLAIMED AS A FEATURE OF THE MARK.

THE COLOR YELLOW APPEARS ON THE BOTTOM TWO THIRDS OF THE PACKAGE. THE BLACK BULLET LOGO WITH A THIN WHITE CIRCLE WITHIN AND THE WORDS MIRACLE-GRO UNITE THE PINK AND YELLOW PACKAGING. IN THE CENTER OF THE TRADEMARK APPEARS A PICTURE OF A WOMAN GARDENING AMONG A BED OF RED AND PINK ROSES. THE PLANT PORTION OF THE ROSES ARE GREEN. THE ROSEBED IS BORDERED BY A WHITE FENCE. THE WOMAN IS WEARING A BEIGE HAT. THE WORD ROSES APPEARS IN WHITE ON A PINK BANNER AND THE WORDS GARDEN SOIL IN BLACK WITH A GREEN LEAF DOTTING THE "I" IN SOIL.

THE MARK CONSISTS OF THE TRADEMARK MIRACLE-GRO ON A CIRCULAR LOGO, WITH THE WORDS GARDEN SOIL, ROSES, AND THE WORDS BONE MEAL ADDED TO GROW BIG, BEAUTIFUL BLOOMS!, ON A PACKAGE WITH A FIGURE OF A PERSON IN A GARDEN.

THE ENGLISH TRANSLATION OF "TIERRA PARA EL JARDIN" IS GARDEN SOIL.

SER. NO. 78-478,913, FILED 9-3-2004.

WILLIAM P. SHANAHAN, EXAMINING ATTORNEY

Int. Cl.: 1

Prior U.S. Cls.: 1, 5, 6, 10, 26 and 46

Reg. No. 3,180,531

United States Patent and Trademark Office

Registered Dec. 5, 2006

TRADEMARK
PRINCIPAL REGISTER



OMS INVESTMENTS, INC. (DELAWARE CORPORATION)

10250 CONSTELLATION BLVD., SUITE 2800

LOS ANGELES, CA 90067

FOR: FERTILIZERS FOR DOMESTIC USE, POTTING SOIL, BLOOD MEAL, AND BONE MEAL, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 3-31-2003; IN COMMERCE 3-31-2003.

OWNER OF U.S. REG. NOS. 1,223,038, 2,978,064 AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "ORGANIC", APART FROM THE MARK AS SHOWN.

SER. NO. 78-782,928, FILED 12-30-2005.

JAMES GRIFFIN, EXAMINING ATTORNEY

Int. Cl.: 1

Prior U.S. Cls.: 1, 5, 6, 10, 26 and 46

United States Patent and Trademark Office

Reg. No. 3,182,529

Registered Dec. 12, 2006

TRADEMARK
PRINCIPAL REGISTER



OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
10250 CONSTELLATION BLVD., SUITE 2800
LOS ANGELES, CA 90067

FOR: GARDEN SOIL, PLANTING SOIL, SOIL CONTAINING ADDITIVES, SOIL CONDITIONERS FOR AGRICULTURAL, DOMESTIC OR HORTICULTURAL USE AND FERTILIZERS FOR SOIL AND POTTING SOIL, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 2-1-2005; IN COMMERCE 2-1-2005.

OWNER OF U.S. REG. NOS. 688,868, 2,822,655 AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE GARDEN SOIL; TREES & SHRUBS; GROWS BIG BEAUTIFUL TREES & SHRUBS GUARANTEED, AND TIERRA PARA EL JARDIN, APART FROM THE MARK AS SHOWN.

THE LIKENESS IN THE MARK IDENTIFIES LYNN GRACE A LIVING INDIVIDUAL WHOSE CONSENT IS OF RECORD

THE COLORS BLUE, GREEN, RED, YELLOW, WHITE, BLACK, PINK AND BROWN ARE CLAIMED AS A FEATURE OF THE MARK.

THE TOP ONE-THIRD OF THE BAG APPEARING ABOVE AND ADJACENT TO THE TRADEMARK

"MIRACLE-GRO" IS IN BLUE, THE WORDING "GROWS BIG BEAUTIFUL TREES & SHRUBS GUARANTEED" APPEARS IN YELLOW UPON A RED RECTANGULAR BACKGROUND AND YELLOW OUTER EDGES, THE TRADEMARK "MIRACLE-GRO" APPEARS IN WHITE UPON A BLACK CIRCLE WITH A YELLOW OUTER EDGE AND THE COLOR WHITE EMANATES FROM THE BLACK OUTER EDGE OF THE CIRCLES, THE WORDING "GARDEN SOIL" IS IN BLACK WITH A WHITE BACKGROUND, THE WORDING "TREES & SHRUBS" ARE IN WHITE UPON A BLUE BACKGROUND, THE WORDING "TIERRA PARA EL JARDIN" IS IN RED, THE LEAF APPEARING ABOVE THE LETTER "I" IN "SOIL" IS GREEN AND WHITE, THE PREDOMINANT COLOR IN THE BACKGROUND OF THE LOWER PART OF THE DRAWING BELOW THE BLUE IS IN YELLOW AND THE PARTIAL CIRCLE RUNNING THROUGH "MIRACLE-GRO" ON TOP OF THE DRAWING AND BELOW THE WOMAN GARDENING IS IN GREEN, THE FLOWERS SURROUNDING THE WOMAN GARDENING ARE IN THE COLORS YELLOW, PINK, RED, GREEN, WHITE AND ORANGE, THE WOMAN GARDENER IS WEARING A YELLOW HAT, WHITE DRESS, AND HAS A BROWN FACE, THE EDGE OF THE DRAWING ON THE LEFT AND RIGHT SIDES IS IN BLUE AND THE IRREGULARLY SHAPED LINES APPEARING BELOW THE WORDING "GARDEN SOIL" AND "FLOWERS & VEGETABLES" ARE IN GREEN.

THE ENGLISH TRANSLATION OF "TIERRA
PARA EL JARDIN" IS GARDEN SOIL.

SER. NO. 78-478.917. FILED 9-3-2004.

EDWARD NELSON, EXAMINING ATTORNEY

Int. Cl.: 1

Prior U.S. Cls.: 1, 5, 6, 10, 26 and 46

Reg. No. 3,190,987

United States Patent and Trademark Office

Registered Jan. 2, 2007

TRADEMARK
PRINCIPAL REGISTER



OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
10250 CONSTELLATION BLVD., SUITE 2800
LOS ANGELES, CA 90067

FOR: GARDEN SOIL, PLANTING SOIL, SOIL CONTAINING ADDITIVES, SOIL CONDITIONERS FOR AGRICULTURAL, DOMESTIC OR HORTICULTURAL USE AND FERTILIZERS FOR SOIL AND POTTING SOIL, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 2-1-2005; IN COMMERCE 2-1-2005.

OWNER OF U.S. REG. NOS. 688,868, 2,822,655 AND OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE GARDEN SOIL, FLOWERS & VEGETABLES, TOPSOIL AND TIERRA PARA EL JARDIN, APART FROM THE MARK AS SHOWN.

THE LIKENESS IN THE MARK IDENTIFIES LYNN GRACE A LIVING INDIVIDUAL WHOSE CONSENT IS OF RECORD.

THE COLORS GREEN, RED, YELLOW, WHITE, BLACK, PINK, ORANGE AND BROWN ARE CLAIMED AS A FEATURE OF THE MARK.

THE TOP ONE-THIRD OF THE BAG APPEARING ABOVE AND ADJACENT TO THE TRADEMARK MIRACLE-GRO IS IN GREEN, THE WORDING GROWS PLANTS TWICE AS BIG AS TOPSOIL APPEARS IN YELLOW UPON A RED RECTANGULAR BACKGROUND AND YELLOW OUTER EDGES. THE TRADEMARK MIRACLE-GRO AP-

PEARS IN WHITE UPON A BLACK CIRCLE WITH A YELLOW OUTER EDGE AND THE COLOR WHITE EMANATES FROM THE BLACK OUTER EDGE OF THE CIRCLES, THE WORDING "GARDEN SOIL" IS IN BLACK WITH A WHITE BACKGROUND, THE WORDING "FLOWERS & VEGETABLES" ARE IN WHITE UPON A GREEN BACKGROUND, THE WORDING "TIERRA PARA EL JARDIN" IS IN RED, THE LEAF APPEARING ABOVE THE LETTER "T" IN "SOIL" IS GREEN AND WHITE, THE PRE-DOMINANT COLOR IN BACKGROUND OF THE LOWER PART OF THE DRAWING BELOW THE GREEN IS IN YELLOW AND THE PARTIAL CIRCLE RUNNING THROUGH MIRACLE-GRO ON TOP OF THE DRAWING AND BELOW THE WOMAN GARDENING IS IN PINK, THE PICKET FENCE IS WHITE, THE FLOWERS DIRECTLY BEHIND THE PICKET FENCE AND THE WOMAN GARDENING ARE IN THE COLORS YELLOW, PINK, RED, GREEN, WHITE AND ORANGE, THE WOMAN GARDENER IS WEARING A BROWN HAT, BLUE SHIRT, WHITE PANTS, RED SHOES AND HAS BROWN ARMS, THE EDGE OF THE DRAWING ON THE LEFT AND RIGHT SIDES IS IN GREEN AS ARE THE IRREGULARLY SHAPED LINES APPEARING BELOW THE WORDING "GARDEN SOIL" AND "FLOWERS AND VEGATABLES".

THE ENGLISH TRANSLATION OF "TIERRA PARA EL JARDIN" IS GARDEN SOIL.

SEC. 2(F) AS TO "GROWS PLANTS TWICE AS BIG."

SER. NO. 78-478,903, FILED 9-3-2004.

EDWARD NELSON, EXAMINING ATTORNEY

SER. NO. 78-478.903. FILED 9-3-2004.

EDWARD NELSON, EXAMINING ATTORNEY

Int. Cl.: 1

Prior U.S. Cls.: 1, 5, 6, 10, 26, and 46

United States Patent and Trademark Office

Reg. No. 3,233,837

Registered Apr. 24, 2007

TRADEMARK
PRINCIPAL REGISTER



OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
10250 CONSTELLATION BLVD, SUITE 2800
LOS ANGELES, CA 900676228

FOR: CHARCOAL FOR HORTICULTURAL PURPOSES AND FOR USE AS A SOIL CONDITIONER; PERLITE FOR HORTICULTURAL PURPOSES AND FOR USE AS A SOIL CONDITIONER. IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 12-0-2000: IN COMMERCE 12-0-2000.

OWNER OF U.S. REG. NOS. 668,868 2,618,699, AND OTHERS.

THE MARK CONSISTS OF THE WORD "MIRACLE-GRO" IN A BULLSEYE LOGO WITH A GREEN LEAF DOTTING THE "I" IN "MIRACLE-GRO" AND A YELLOW RING IN THE BULLSEYE.

SN 76-496,457. FILED 3-4-2003.

EDWARD NELSON, EXAMINING ATTORNEY

Int. Cl.: 7

Prior U.S. Cls.: 13, 19, 21, 23, 31, 34 and 35

Reg. No. 3,456,832

United States Patent and Trademark Office

Registered July 1, 2008

TRADEMARK
PRINCIPAL REGISTER

MIRACLE-GRO

OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
10250 CONSTELLATION BLVD., SUITE 2800
LOS ANGELES, CA 90067

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

FOR: COMPOSTER MACHINES AND COMPONENTS THEREOF FOR RECYCLING SOLID WASTE, IN CLASS 7 (U.S. CLS. 13, 19, 21, 23, 31, 34 AND 35).

OWNER OF U.S. REG. NO. 2,758,533.

SER. NO. 77-215,022, FILED 6-25-2007.

FIRST USE 3-12-2007; IN COMMERCE 3-12-2007.

ODESSA BIBBINS, EXAMINING ATTORNEY

Int. Cl.: 31

Prior U.S. Cls.: 1 and 46

United States Patent and Trademark Office

Reg. No. 3,498,947

Registered Sep. 9, 2008

TRADEMARK
PRINCIPAL REGISTER

GARDEN-GRO

OMS INVESTMENTS, INC. (DELAWARE COR-
PORATION)
10250 CONSTELLATION BLVD., SUITE 2800
LOS ANGELES, CA 90067

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

FOR: MULCH, IN CLASS 31 (U.S. CLS. 1 AND 46).

SER. NO. 77-394,176, FILED 2-11-2008.

FIRST USE 2-9-2008; IN COMMERCE 2-9-2008.

STEVEN JACKSON, EXAMINING ATTORNEY

Int. Cl.: 44

Prior U.S. Cls.: 100 and 101

Reg. No. 3,552,933

United States Patent and Trademark Office

Registered Dec. 30, 2008

SERVICE MARK
PRINCIPAL REGISTER

IT'S GRO TIME

OMS INVESTMENTS, INC. (DELAWARE CORPORATION)
10250 CONSTELLATION BLVD., SUITE 2800
LOS ANGELES, CA 90067

FOR: PROVIDING ADVICE AND INFORMATION ON THE SUBJECTS OF GARDENING AND LAWN CARE AND THE USE OF PRODUCTS RELATING TO GARDENING AND LAWN CARE, NAMELY, PLANT FOODS, FERTILIZERS, PESTICIDES, HERBICIDES, GRASS SEED, POTTING MIXES, SOIL, SOIL CONDITIONERS AND AMENDMENTS, MULCHES, AND LAWN AND GARDEN EQUIPMENT; PROVIDING ADVICE AND INFORMATION ON THE SUBJECTS OF GARDENING AND LAWN CARE AND THE USE OF PRODUCTS RELATING TO GARDENING AND LAWN CARE, NAMELY, PLANT FOODS, FERTILIZERS, PESTICIDES, HERBICIDES, GRASS SEED, POTTING MIXES, SOIL, SOIL CONDITIONERS AND AMENDMENTS, MULCHES, AND LAWN AND GARDEN EQUIPMENT VIA THE INTERNET; PROVIDING IN-STORE CONSULTING SERVICES ON THE SUBJECTS OF GAR-

DENING AND LAWN CARE AND THE USE OF RELATED PRODUCTS, NAMELY, PLANT FOODS, FERTILIZERS, PESTICIDES, GRASS SEED, POTTING MIXES, SOIL, SOIL CONDITIONERS AND AMENDMENTS, MULCHES, AND LAWN AND GARDEN EQUIPMENT; LAWN, TREE, AND SHRUB CARE SERVICES; LANDSCAPE GARDENING SERVICES; CONSULTING SERVICES IN THE FIELD OF LAWN, TREE, AND SHRUB CARE AND LANDSCAPE GARDENING, IN CLASS 44 (U.S. CLS. 100 AND 101).

FIRST USE 2-0-2008; IN COMMERCE 2-0-2008.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 77-341,566, FILED 11-30-2007.

THOMAS MANOR, EXAMINING ATTORNEY

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-06-10 12:51:29 ET

Serial Number: 76653762 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

GARDEN GRO

(words only): GARDEN GRO

Standard Character claim: Yes

Current Status: A request for the third extension of time to file a statement of use has been granted.

Date of Status: 2009-04-29

Filing Date: 2006-01-19

The Notice of Allowance Date is: 2007-11-20

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 103

Attorney Assigned:
MORENO PAUL A

Current Location: 700 -Intent To Use Section

Date In Location: 2007-11-20

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. OMS INVESTMENTS, INC.

Address:
OMS INVESTMENTS, INC.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067

United States
Legal Entity Type: Corporation
State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001
Class Status: Active
fertilizers
Basis: 1(b)
First Use Date: (DATE NOT AVAILABLE)
First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Disclaimer: "GARDEN"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-04-29 - Extension 3 granted
2009-04-29 - Extension 3 filed
2009-04-29 - TEAS Extension Received
2008-10-10 - Extension 2 granted
2008-10-10 - Extension 2 filed
2008-10-10 - TEAS Extension Received
2008-05-09 - Extension 1 granted
2008-05-09 - Extension 1 filed
2008-05-09 - TEAS Extension Received
2007-11-20 - Noa Mailed - SOU Required From Applicant
2007-08-28 - Published for opposition
2007-08-08 - Notice of publication

2007-05-21 - Law Office Publication Review Completed
2007-05-18 - Approved for Pub - Principal Register (Initial exam)
2007-01-24 - Assigned To Examiner
2007-01-24 - Amendment From Applicant Entered
2006-12-26 - Communication received from applicant
2007-01-24 - Assigned To LIE
2006-12-26 - PAPER RECEIVED
2006-06-27 - Attorney Revoked And/Or Appointed
2006-06-27 - TEAS Revoke/Appoint Attorney Received
2006-06-26 - Non-final action mailed
2006-06-23 - Non-Final Action Written
2006-06-23 - Assigned To Examiner
2006-02-04 - Application Filing Receipt Mailed
2006-01-31 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, Esq.

Correspondent

Susan E. Hollander, Esq.
Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Bldg. 2
Palo Alto CA 94304
Phone Number: 650-812-1300
Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-06-10 12:51:50 ET

Serial Number: 77341556 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

IT'S GRO TIME

(words only): IT'S GRO TIME

Standard Character claim: Yes

Current Status: A request for the first extension of time to file a statement of use has been granted.

Date of Status: 2008-12-03

Filing Date: 2007-11-30

The Notice of Allowance Date is: 2008-07-08

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 110

Attorney Assigned:
MANOR THOMAS M

Current Location: 700 -Intent To Use Section

Date In Location: 2008-07-08

LAST APPLICANT(S)/OWNER(S) OF RECORD

I. OMS Investments, Inc.

Address:
OMS Investments, Inc.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001

Class Status: Active

Fertilizers for domestic, agricultural and horticultural use; soil amendments, soil conditioners, and soil improving agents for domestic, agricultural and horticultural use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-12-03 - Extension 1 granted

2008-12-03 - Extension 1 filed

2008-12-03 - TEAS Extension Received

2008-07-08 - Noa Mailed - SOU Required From Applicant

2008-04-15 - Published for opposition

2008-03-26 - Notice of publication

2008-03-11 - Law Office Publication Review Completed

2008-03-11 - Assigned To LIE

2008-02-15 - Approved for Pub - Principal Register (Initial exam)

2008-02-11 - Assigned To Examiner

2007-12-06 - Notice Of Pseudo Mark Mailed

2007-12-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, esq.

Correspondent

SUSAN E. HOLLANDER, ESQ.
MANATT, PHELPS & PHILLIPS, LLP
1001 PAGE MILL RD BLDG 2
PALO ALTO, CA 94304-1008
Phone Number: 650-812-1300
Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-06-10 12:52:06 ET

Serial Number: 77341562 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

IT'S GRO TIME

(words only): IT'S GRO TIME

Standard Character claim: Yes

Current Status: A request for the first extension of time to file a statement of use has been granted.

Date of Status: 2008-12-03

Filing Date: 2007-11-30

The Notice of Allowance Date is: 2008-07-08

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 110

Attorney Assigned:
MANOR THOMAS M

Current Location: 700 -Intent To Use Section

Date In Location: 2008-07-08

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. OMS Investments, Inc.

Address:
OMS Investments, Inc.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031

Class Status: Active

Grass seed; grass products, namely, grass sod and grass plugs; top soil; mulch; raw bark; peat moss; combination of grass seed, fertilizer and mulch for the purpose of lawn repair; soil containing fertilizer; live plants

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-12-03 - Extension 1 granted

2008-12-03 - Extension 1 filed

2008-12-03 - TEAS Extension Received

2008-07-08 - Noa Mailed - SOU Required From Applicant

2008-04-15 - Published for opposition

2008-03-26 - Notice of publication

2008-03-11 - Law Office Publication Review Completed

2008-03-11 - Assigned To LIE

2008-02-15 - Approved for Pub - Principal Register (Initial exam)

2008-02-11 - Assigned To Examiner

2007-12-06 - Notice Of Pseudo Mark Mailed

2007-12-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, esq.

Correspondent

SUSAN E. HOLLANDER, ESQ.
MANATT, PHELPS & PHILLIPS, LLP
1001 PAGE MILL RD BLDG 2
PALO ALTO, CA 94304-1008
Phone Number: 650-812-1300
Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-06-10 12:52:23 ET

Serial Number: 77406779 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

PRO GRO

(words only): PRO GRO

Standard Character claim: Yes

Current Status: Opposition period completed, a Notice of Allowance has been issued.

Date of Status: 2009-04-07

Filing Date: 2008-02-26

The Notice of Allowance Date is: 2009-04-07

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 107

Attorney Assigned:
JACKSON STEVEN W

Current Location: 700 -Intent To Use Section

Date In Location: 2009-04-07

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. OMS Investments, inc.

Address:
OMS Investments, inc.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001

Class Status: Active

Fertilizers for domestic, agricultural and horticultural use; soil amendments, soil conditioners, and soil improving agents for domestic, agricultural and horticultural use; plant food; potting soil; planting soil; growing media for plants; humus; manure; peat; compost; and loam

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-04-07 - Noa Mailed - SOU Required From Applicant

2009-01-13 - Published for opposition

2008-12-24 - Notice of publication

2008-12-11 - Law Office Publication Review Completed

2008-12-11 - Assigned To LIE

2008-12-05 - Approved for Pub - Principal Register (Initial exam)

2008-11-25 - Teas/Email Correspondence Entered

2008-11-24 - Communication received from applicant

2008-11-24 - TEAS Response to Office Action Received

2008-05-22 - Notification Of Non-Final Action E-Mailed

2008-05-22 - Non-final action e-mailed

2008-05-22 - Non-Final Action Written

2008-05-20 - Assigned To Examiner

2008-03-04 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, Esq., Gail I. Nevius Abbas, Esq. and Christine M. Klenk, Esq.

Correspondent

SUSAN E. HOLLANDER, ESQ., GAIL I. NEVIUS
MANATT, PHELPS & PHILLIPS, LLP
1001 PAGE MILL RD BLDG 2
PALO ALTO, CA 94304-1008
Phone Number: 650-812-1300
Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-06-10 12:52:40 ET

Serial Number: 77421528 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

MIRACLE-GRO SELECT PLANTS

(words only): MIRACLE-GRO SELECT PLANTS

Standard Character claim: Yes

Current Status: Opposition period completed, a Notice of Allowance has been issued.

Date of Status: 2009-04-07

Filing Date: 2008-03-13

The Notice of Allowance Date is: 2009-04-07

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 107

Attorney Assigned:
JACKSON STEVEN W

Current Location: 700 -Intent To Use Section

Date In Location: 2009-04-07

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031

Class Status: Active

Live plants

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Disclaimer: "SELECT PLANTS"

Prior Registration Number(s):

2525828

2723181

2816031

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-04-07 - Noa Mailed - SOU Required From Applicant

2009-01-13 - Published for opposition

2008-12-24 - Notice of publication

2008-12-09 - Law Office Publication Review Completed

2008-12-09 - Assigned To LJE

2008-12-03 - Approved for Pub - Principal Register (Initial exam)

2008-11-19 - Teas/Email Correspondence Entered

2008-11-18 - Communication received from applicant

2008-11-18 - TEAS Response to Office Action Received

2008-05-22 - Notification Of Non-Final Action E-Mailed

2008-05-22 - Non-final action e-mailed

2008-05-22 - Non-Final Action Written

2008-05-20 - Assigned To Examiner

2008-03-20 - Notice Of Pseudo Mark Mailed

2008-03-19 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, Esq.

Correspondent

SUSAN E. HOLLANDER, ESQ.
MANATT, PHELPS & PHILLIPS, LLP
1001 PAGE MILL ROAD, BLDG. 2
PALO ALTO, CA 94304
Phone Number: 650-812-1300
Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-06-10 12:52:57 ET

Serial Number: 77699226 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

ORGANIC-GRO

(words only): ORGANIC-GRO

Standard Character claim: Yes

Current Status: Newly filed application, not yet assigned to an examining attorney.

Date of Status: 2009-04-01

Filing Date: 2009-03-25

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 042 -New Application Processing

Date In Location: 2009-04-01

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001

Class Status: Active

Fertilizers, plant foods, plant growth regulatory preparations and substances, plant growth stimulants and enhancers; soil conditioners, soil amendments, soil additives, soil wetting agents; growing media for plants, garden soils, planting soils, potting mixes and soils, compost, humus, loam, manure and peat

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-03-31 - Notice Of Pseudo Mark Mailed

2009-03-30 - New Application Office Supplied Data Entered In Tram

2009-03-28 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, Esq.

Correspondent

SUSAN E. HOLLANDER, ESQ.
MANATT, PHELPS & PHILLIPS, LLP
1001 PAGE MILL RD BLDG 2
PALO ALTO, CA 94304-1008
Phone Number: 650-812-1300
Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-06-10 12:53:11 ET

Serial Number: 77699235 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

ORGANIC-GRO

(words only): ORGANIC-GRO

Standard Character claim: Yes

Current Status: Newly filed application, not yet assigned to an examining attorney.

Date of Status: 2009-04-01

Filing Date: 2009-03-25

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 042 -New Application Processing

Date In Location: 2009-04-01

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
10250 Constellation Blvd., Suite 2800
Los Angeles, CA 90067
United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031

Class Status: Active

Grass seed; grass products, namely, grass sod and grass plugs; top soil; mulch; raw bark; peat moss; combination of grass seed, fertilizer and mulch for the purpose of lawn repair; soil containing fertilizer; live plants

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-03-31 - Notice Of Pseudo Mark Mailed

2009-03-30 - New Application Office Supplied Data Entered In Tram

2009-03-28 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, Esq.

Correspondent

SUSAN E. HOLLANDER, ESQ.
MANATT, PHELPS & PHILLIPS, LLP
1001 PAGE MILL RD BLDG 2
PALO ALTO, CA 94304-1008
Phone Number: 650-812-1300
Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-06-10 12:53:25 ET

Serial Number: 77727569 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

SLO-GRO

(words only): SLO-GRO

Standard Character claim: Yes

Current Status: Final review prior to publication has been completed, application will be published for opposition.

Date of Status: 2009-06-04

Filing Date: 2009-05-01

The Information will be/was published in the Official Gazette on 2009-07-07

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 101

Attorney Assigned:
PEREZ STEVEN M

Current Location: 650 -Publication And Issue Section

Date In Location: 2009-06-04

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. OMS Investments, Inc.

Address:
OMS Investments, Inc.
10250 Constellation Blvd., Suite 2800

Los Angeles, CA 90067

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 031

Class Status: Active

Grass seed

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-06-04 - Law Office Publication Review Completed

2009-06-03 - Assigned To LIE

2009-06-03 - Approved for Pub - Principal Register (Initial exam)

2009-06-01 - Assigned To Examiner

2009-05-06 - Notice Of Pseudo Mark Mailed

2009-05-05 - New Application Office Supplied Data Entered In Tram

2009-05-05 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, Esq.

Correspondent

SUSAN E. HOLLANDER, ESQ.

MANATT, PHELPS & PHILLIPS, LLP

1001 PAGE MILL RD BLDG 2

PALO ALTO, CA 94304-1008

Phone Number: 650-812-1300

Fax Number: 650-213-0260

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2009-06-10 12:53:41 ET

Serial Number: 78795657 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

LET YOURSELF GRO

(words only): LET YOURSELF GRO

Standard Character claim: Yes

Current Status: A request for the fifth extension of time to file a statement of use has been granted.

Date of Status: 2009-04-29

Filing Date: 2006-01-20

The Notice of Allowance Date is: 2006-11-21

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 103

Attorney Assigned:
GRIFFIN JAMES

Current Location: 700 -Intent To Use Section

Date In Location: 2008-11-17

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. OMS Investments, Inc.

Address:

OMS Investments, Inc.
10250 Constellation Blvd.
Los Angeles, CA 90067

United States

Legal Entity Type: Corporation

State or Country of Incorporation: Delaware

GOODS AND/OR SERVICES

International Class: 001

Class Status: Active

Lawn and garden fertilizer, plant food, fertilizer in the form of spikes for houseplants, outdoor plants, trees and shrubbery; peat, compost, humus, loam and manure; potting soil, soil conditioners, soil amendments and growing media for plants all for domestic use

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 005

Class Status: Active

Herbicides for domestic use

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 021

Class Status: Active

Fertilizer mixers and sprayers attached to garden hoses

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 031

Class Status: Active

Flower, vegetable, plant and grass seed; live plants

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 044

Class Status: Active

Providing information via the Internet on lawn care and landscape gardening, including how to use and apply fertilizers, herbicides, fungicides, insecticides, grass seed, flower seed, garden seeds, plant food, potting soil, soil conditioners and amendments and ground cover; providing information via the Internet on the use of equipment for the lawn and garden; providing advice and information via the Internet on flowers and their care

Basis: 1(b)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

(NOT AVAILABLE)

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2009-04-29 - Extension 5 granted

2009-04-29 - Extension 5 filed

2009-04-29 - TEAS Extension Received

2008-11-17 - Extension 4 granted

2008-11-14 - Extension 4 filed

2008-11-17 - Case Assigned To Intent To Use Paralegal

2008-11-14 - TEAS Extension Received

2008-05-09 - Extension 3 granted

2008-05-09 - Extension 3 filed

2008-05-09 - TEAS Extension Received

2007-11-13 - Extension 2 granted

2007-11-13 - Extension 2 filed

2007-11-13 - TEAS Extension Received

2007-04-05 - Extension 1 granted

2007-04-05 - Extension 1 filed

2007-04-05 - TEAS Extension Received

2006-11-21 - Noa Mailed - SOU Required From Applicant

2006-08-29 - Published for opposition

2006-08-09 - Notice of publication

2006-07-06 - Law Office Publication Review Completed

2006-06-30 - Assigned To LIE

2006-06-23 - Approved for Pub - Principal Register (Initial exam)

2006-06-23 - Examiner's Amendment Entered
2006-06-23 - Examiners amendment e-mailed
2006-06-23 - Examiners Amendment -Written
2006-06-23 - Assigned To Examiner
2006-05-23 - Attorney Revoked And/Or Appointed
2006-05-23 - TEAS Revoke/Appoint Attorney Received
2006-05-23 - TEAS Change Of Correspondence Received
2006-01-26 - New Application Entered In Tram

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Susan E. Hollander, Esq.

Correspondent

Susan E. Hollander, Esq.
Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Bldg 2
Palo Alto CA 94304
Phone Number: 650-812-1300
Fax Number: 650-213-0260

Figone, Mary

From: TEAS@uspto.gov

Sent: Wednesday, June 10, 2009 6:58 AM

To: Trademarks - PA

Subject: Received Your Trademark/Service Mark Application, Principal Register for serial number 77755926

MARK: GRO (Standard Characters, mark.jpg)

The literal element of the mark consists of GRO.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

We have received your application and assigned serial number '77755926' to your submission. The summary of the application data, *bottom below*, serves as your official filing receipt. In approximately 3 months, an assigned examining attorney will review your application. Currently, your mark is not registered, but rather is considered a "pending" application. The overall process, from the time of initial filing to final registration, can take 13-18 months or even longer, depending on many factors; *e.g.*, the correctness of the original filing and the type of application filed.

If you discover an error in the application data, you may file a preliminary amendment, at <http://www.uspto.gov/teas/eTEASpageB2.htm>. Do **not** submit any proposed amendment to TEAS@uspto.gov, because the technical support team may not make any data changes. **NOTE:** You must wait approximately 7-10 days to submit any preliminary amendment, to permit initial upload of your serial number into the USPTO database. The acceptability of any preliminary amendment will only be determined once regular examination begins, since the assigned examining attorney must decide whether the change proposed in the amendment is permissible. Not all errors may be corrected; *e.g.*, if you submitted the wrong mark, if the proposed correction would be considered a material alteration to your original filing, it will not be accepted, and your only recourse would be to file a new application (with no refund for your original filing).

Since your application filing has already been assigned a serial number, please do not contact TEAS@uspto.gov to request cancellation. The USPTO will only cancel the filing and refund your fee if upon review we determine that the application did not meet minimum filing requirements. The fee is a processing fee that the USPTO does not refund, even if your mark does not proceed to registration. **NOTE:** The only "exception" to the above is if you inadvertently file duplicate applications specifically because of a *technical glitch* and not merely a misunderstanding or mistake; *i.e.*, if you believe that the first filing did not go through because no confirmation was received and then immediately file again, only to discover later that both filings were successful, then the technical support team at TEAS@uspto.gov can mis-assign and refund one of the filings.

NOTE: To check status, please use <http://tarr.uspto.gov>. Do not submit status requests to TEAS@uspto.gov. You should check status at the 6-month point after filing, and every two months thereafter, to ensure you are aware of any action that the Office may have issued. Failure to respond timely to an action will result in abandonment of your application. You can view all incoming and outgoing correspondence at <http://portal.uspto.gov/external/portal/tow>. If your status check reveals an action has issued that you did not receive, please immediately check the on-line site to view the action. The USPTO does not extend filing deadlines due to a failure to receive USPTO mailings/e-mailings. You must ensure that you update your record if your mail and/or e-mail address changes, using the form available at <http://www.uspto.gov/teas/eTEASpageE.htm>.

WARNING: You may receive unsolicited communications from companies requesting fees for trademark related services, such as monitoring and document filing. Although solicitations from these

companies frequently display customer-specific information, including USPTO serial number or registration number and owner name, companies who offer these services are not affiliated or associated with the USPTO or any other federal agency. The USPTO does not provide trademark monitoring or any similar services. For general information on filing and maintenance requirements for trademark applications and registrations, including fees required by law, please consult the USPTO website.

APPLICATION DATA: Trademark/Service Mark Application, Principal Register

The applicant, OMS Investments, Inc., a corporation of Delaware, having an address of
10250 Constellation Blvd., Suite 2800
Los Angeles, California 90067
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 001: Fertilizers and fertilizers in the form of spikes for trees and shrubs for domestic, agricultural and horticultural use; plant foods, plant growth regulatory preparations and substances, plant growth stimulants and enhancers; soil amendments, soil conditioners, soil additives, soil wetting agents and soil improving agents for domestic, agricultural and horticultural use; growing media for plants, garden soils, planting soils, potting mix comprised of soil and fertilizer, potting soils, compost, humus, loam, manure and peat

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant hereby appoints Susan E. Hollander, Esq. and Gail I. Nevius Abbas, Esq. of Manatt, Phelps & Phillips, LLP

1001 Page Mill Road, Bldg. 2
Palo Alto, California 94304
United States

to submit this application on behalf of the applicant. The attorney docket/reference number is 28405-047.

Correspondence Information: Susan E. Hollander, Esq.

Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Bldg. 2
Palo Alto, California 94304
650-812-1300(phone)
650-213-0260(fax)
patrademarks@manatt.com (authorized)

A fee payment in the amount of \$325 will be submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the

applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Gail I. Nevius Abbas/ Date: 06/10/2009

Signatory's Name: Gail I. Nevius Abbas, Esq.

Signatory's Position: Attorney of Record

Thank you,

The TEAS support team

Wed Jun 10 09:57:43 EDT 2009

STAMP: USPTO/BAS-64.94.105.67-20090610095743508794-77755926-
4002c896391b91fc8b8f1f5ad3fd6d6257a-DA-6383-20090609151104194686

Figone, Mary

From: TEAS@uspto.gov
Sent: Wednesday, June 10, 2009 7:00 AM
To: Trademarks - PA
Subject: Received Your Trademark/Service Mark Application, Principal Register for serial number 77755931

MARK: GRO (Standard Characters, mark.jpg)

The literal element of the mark consists of GRO.

The mark consists of standard characters, without claim to any particular font, style, size, or color.

We have received your application and assigned serial number '77755931' to your submission. The summary of the application data, *bottom below*, serves as your official filing receipt. In approximately 3 months, an assigned examining attorney will review your application. Currently, your mark is not registered, but rather is considered a "pending" application. The overall process, from the time of initial filing to final registration, can take 13-18 months or even longer, depending on many factors; e.g., the correctness of the original filing and the type of application filed.

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companies frequently display customer-specific information, including USPTO serial number or registration number and owner name, companies who offer these services are not affiliated or associated with the USPTO or any other federal agency. The USPTO does not provide trademark monitoring or any similar services. For general information on filing and maintenance requirements for trademark applications and registrations, including fees required by law, please consult the USPTO website.

APPLICATION DATA: Trademark/Service Mark Application, Principal Register

The applicant, OMS Investments, Inc., a corporation of Delaware, having an address of
10250 Constellation Blvd., Suite 2800
Los Angeles, California 90067
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 044: Providing advice and information on the subjects of gardening and lawn care and the use of products relating to gardening and lawn care, namely, plant foods, fertilizers, pesticides, herbicides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment; providing advice and information on the subjects of gardening and lawn care and the use of products relating to gardening and lawn care, namely, plant foods, fertilizers, pesticides, herbicides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment via print and electronic means; providing in-store consulting services on the subjects of gardening and lawn care and the use of related products, namely, plant foods, fertilizers, pesticides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment; lawn, tree, and shrub care services; landscape gardening services; consulting services in the field of lawn, tree, and shrub care and landscape gardening
Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant hereby appoints Susan E. Hollander, Esq. and Gail I. Nevius Abbas, Esq. of Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Bldg. 2
Palo Alto, California 94304
United States

to submit this application on behalf of the applicant. The attorney docket/reference number is 28405-047.

Correspondence Information: Susan E. Hollander, Esq.

Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Bldg. 2
Palo Alto, California 94304
650-812-1300(phone)
650-213-0260(fax)
patrademarks@manatt.com (authorized)

A fee payment in the amount of \$325 will be submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Gail I. Nevius Abbas/ Date: 06/10/2009
Signatory's Name: Gail I. Nevius Abbas, Esq.
Signatory's Position: Attorney of Record

Thank you,

The TEAS support team
Wed Jun 10 10:00:21 EDT 2009
STAMP: USPTO/BAS-64.94.105.67-20090610100020957356-77755931-
400af576ecc3c0e48ded14b7d7f16cc72-DA-6407-20090609151500606682

Figone, Mary

From: TEAS@uspto.gov
Sent: Wednesday, June 10, 2009 7:03 AM
To: Trademarks - PA
Subject: Received Your Trademark/Service Mark Application, Principal Register for serial number 77755934

MARK: GRO (stylized and/or with design, mark_649410567-152026798__GRO.jpg)

The literal element of the mark consists of GRO.

The applicant is not claiming color as a feature of the mark. The mark consists of Capital letters "G" "R" "O" all stylized.

We have received your application and assigned serial number '77755934' to your submission. The summary of the application data, *bottom below*, serves as your official filing receipt. In approximately 3 months, an assigned examining attorney will review your application. Currently, your mark is not registered, but rather is considered a "pending" application. The overall process, from the time of initial filing to final registration, can take 13-18 months or even longer, depending on many factors; *e.g.*, the correctness of the original filing and the type of application filed.

If you discover an error in the application data, you may file a preliminary amendment, at <http://www.uspto.gov/teas/eTEASpageB2.htm>. Do **not** submit any proposed amendment to TEAS@uspto.gov, because the technical support team may not make any data changes. **NOTE:** You must wait approximately 7-10 days to submit any preliminary amendment, to permit initial upload of your serial number into the USPTO database. The acceptability of any preliminary amendment will only be determined once regular examination begins, since the assigned examining attorney must decide whether the change proposed in the amendment is permissible. Not all errors may be corrected; *e.g.*, if you submitted the wrong mark, if the proposed correction would be considered a material alteration to your original filing, it will not be accepted, and your only recourse would be to file a new application (with no refund for your original filing).

Since your application filing has already been assigned a serial number, please do **not** contact TEAS@uspto.gov to request cancellation. The USPTO will only cancel the filing and refund your fee if upon review we determine that the application did not meet minimum filing requirements. The fee is a processing fee that the USPTO does not refund, even if your mark does not proceed to registration. **NOTE:** The only "exception" to the above is if you inadvertently file duplicate applications specifically because of a *technical glitch* and not merely a misunderstanding or mistake; *i.e.*, if you believe that the first filing did not go through because no confirmation was received and then immediately file again, only to discover later that both filings were successful, then the technical support team at TEAS@uspto.gov can mis-assign and refund one of the filings.

NOTE: To check status, please use <http://tarr.uspto.gov>. Do **not** submit status requests to TEAS@uspto.gov. You should check status at the 6-month point after filing, and every two months thereafter, to ensure you are aware of any action that the Office may have issued. Failure to respond timely to an action will result in abandonment of your application. You can view all incoming and outgoing correspondence at <http://portal.uspto.gov/external/portal/tow>. If your status check reveals an action has issued that you did not receive, please immediately check the on-line site to view the action. The USPTO does not extend filing deadlines due to a failure to receive USPTO mailings/e-mailings. You must ensure that you update your record if your mail and/or e-mail address changes, using the form available at <http://www.uspto.gov/teas/eTEASpageE.htm>.

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trademark related services, such as monitoring and document filing. Although solicitations from these companies frequently display customer-specific information, including USPTO serial number or registration number and owner name, companies who offer these services are not affiliated or associated with the USPTO or any other federal agency. The USPTO does not provide trademark monitoring or any similar services. For general information on filing and maintenance requirements for trademark applications and registrations, including fees required by law, please consult the USPTO website.

APPLICATION DATA: Trademark/Service Mark Application, Principal Register

The applicant, OMS Investments, Inc., a corporation of Delaware, having an address of
10250 Constellation Blvd., Suite 2800
Los Angeles, California 90067
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 001: Fertilizers and fertilizers in the form of spikes for trees and shrubs for domestic, agricultural and horticultural use; plant foods, plant growth regulatory preparations and substances, plant growth stimulants and enhancers; soil amendments, soil conditioners, soil additives, soil wetting agents and soil improving agents for domestic, agricultural and horticultural use; growing media for plants, garden soils, planting soils, potting mix comprised of soil and fertilizer, potting soils, compost, humus, loam, manure and peat

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant hereby appoints Susan E. Hollander, Esq. and Gail I. Nevius Abbas, Esq. of Manatt, Phelps & Phillips, LLP

1001 Page Mill Road, Bldg. 2
Palo Alto, California 94304
United States

to submit this application on behalf of the applicant. The attorney docket/reference number is 28405-047.

Correspondence Information: Susan E. Hollander, Esq.

Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Bldg. 2
Palo Alto, California 94304
650-812-1300(phone)
650-213-0260(fax)
patrademarks@manatt.com (authorized)

A fee payment in the amount of \$325 will be submitted with the application, representing payment for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are

punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Gail I. Nevius Abbas/ Date: 06/10/2009
Signatory's Name: Gail I. Nevius Abbas, Esq.
Signatory's Position: Attorney of Record

Thank you,

The TEAS support team
Wed Jun 10 10:02:57 EDT 2009
STAMP: USPTO/BAS-64.94.105.67-20090610100257706707-77755934-
4006b48d1fa4cfa37958aebb51978d9c-DA-6418-20090609152026798944

Figone, Mary

From: TEAS@uspto.gov
Sent: Wednesday, June 10, 2009 7:06 AM
To: Trademarks - PA
Subject: Received Your Trademark/Service Mark Application, Principal Register for serial number 77755935

MARK: GRO (stylized and/or with design, mark_649410567-152641854_.GRO.jpg)

The literal element of the mark consists of GRO.

The applicant is not claiming color as a feature of the mark. The mark consists of Capital letters "G" "R" "O" all stylized.

We have received your application and assigned serial number '77755935' to your submission. The summary of the application data, *bottom below*, serves as your official filing receipt. In approximately 3 months, an assigned examining attorney will review your application. Currently, your mark is not registered, but rather is considered a "pending" application. The overall process, from the time of initial filing to final registration, can take 13-18 months or even longer, depending on many factors; *e.g.*, the correctness of the original filing and the type of application filed.

If you discover an error in the application data, you may file a preliminary amendment, at <http://www.uspto.gov/teas/eTEASpageB2.htm>. Do **not** submit any proposed amendment to TEAS@uspto.gov, because the technical support team may not make any data changes. **NOTE:** You must wait approximately 7-10 days to submit any preliminary amendment, to permit initial upload of your serial number into the USPTO database. The acceptability of any preliminary amendment will only be determined once regular examination begins, since the assigned examining attorney must decide whether the change proposed in the amendment is permissible. Not all errors may be corrected; *e.g.*, if you submitted the wrong mark, if the proposed correction would be considered a material alteration to your original filing, it will not be accepted, and your only recourse would be to file a new application (with **no** refund for your original filing).

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NOTE: To check status, please use <http://tarr.uspto.gov>. Do **not** submit status requests to TEAS@uspto.gov. You should check status at the 6-month point after filing, and every two months thereafter, to ensure you are aware of any action that the Office may have issued. Failure to respond timely to an action will result in abandonment of your application. You can view all incoming and outgoing correspondence at <http://portal.uspto.gov/external/portal/tow>. If your status check reveals an action has issued that you did not receive, please immediately check the on-line site to view the action. The USPTO does not extend filing deadlines due to a failure to receive USPTO mailings/e-mailings. You must ensure that you update your record if your mail and/or e-mail address changes, using the form available at <http://www.uspto.gov/teas/eTEASpageE.htm>.

WARNING: You may receive unsolicited communications from companies requesting fees for

trademark related services, such as monitoring and document filing. Although solicitations from these companies frequently display customer-specific information, including USPTO serial number or registration number and owner name, companies who offer these services are not affiliated or associated with the USPTO or any other federal agency. The USPTO does not provide trademark monitoring or any similar services. For general information on filing and maintenance requirements for trademark applications and registrations, including fees required by law, please consult the USPTO website.

APPLICATION DATA: Trademark/Service Mark Application, Principal Register

The applicant, OMS Investments, Inc., a corporation of Delaware, having an address of
10250 Constellation Blvd., Suite 2800
Los Angeles, California 90067
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 044: Providing advice and information on the subjects of gardening and lawn care and the use of products relating to gardening and lawn care, namely, plant foods, fertilizers, pesticides, herbicides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment; providing advice and information on the subjects of gardening and lawn care and the use of products relating to gardening and lawn care, namely, plant foods, fertilizers, pesticides, herbicides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment via print and electronic means; providing in-store consulting services on the subjects of gardening and lawn care and the use of related products, namely, plant foods, fertilizers, pesticides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment; lawn, tree, and shrub care services; landscape gardening services; consulting services in the field of lawn, tree, and shrub care and landscape gardening
Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant hereby appoints Susan E. Hollander, Esq. and Gail I. Nevius Abbas, Esq. of Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Bldg. 2
Palo Alto, California 94304
United States

to submit this application on behalf of the applicant. The attorney docket/reference number is 28405-047.

Correspondence Information: Susan E. Hollander, Esq.

Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Bldg. 2
Palo Alto, California 94304
650-812-1300(phone)
650-213-0260(fax)
patrademarks@manatt.com (authorized)

A fee payment in the amount of \$325 will be submitted with the application, representing payment

for 1 class(es).

Declaration

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Gail I. Nevius Abbas/ Date: 06/10/2009
Signatory's Name: Gail I. Nevius Abbas, Esq.
Signatory's Position: Attorney of Record

Thank you,

The TEAS support team
Wed Jun 10 10:05:34 EDT 2009
STAMP: USPTO/BAS-64.94.105.67-20090610100534661680-77755935-
4000e13bfbf42d561f603fa33e3af25-DA-6434-20090609152641854262

Figone, Mary

From: TEAS@uspto.gov
Sent: Wednesday, June 10, 2009 7:09 AM
To: Trademarks - PA
Subject: Received Your Trademark/Service Mark Application, Principal Register for serial number 77755938

MARK: Gro (stylized and/or with design, mark_649410567-153638432_-_Gro_Dwg_.x.jpg)

The literal element of the mark consists of Gro.

The applicant is not claiming color as a feature of the mark. The mark consists of Capital letter "G" followed by lower case letters "r" "o" all stylized.

We have received your application and assigned serial number '77755938' to your submission. The summary of the application data, *bottom below*, serves as your official filing receipt. In approximately 3 months, an assigned examining attorney will review your application. Currently, your mark is not registered, but rather is considered a "pending" application. The overall process, from the time of initial filing to final registration, can take 13-18 months or even longer, depending on many factors; e.g., the correctness of the original filing and the type of application filed.

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Los Angeles, California 90067
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 044: Providing advice and information on the subjects of gardening and lawn care and the use of products relating to gardening and lawn care, namely, plant foods, fertilizers, pesticides, herbicides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment; providing advice and information on the subjects of gardening and lawn care and the use of products relating to gardening and lawn care, namely, plant foods, fertilizers, pesticides, herbicides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment via print and electronic means; providing in-store consulting services on the subjects of gardening and lawn care and the use of related products, namely, plant foods, fertilizers, pesticides, grass seed, potting mixes, soil, soil conditioners and amendments, mulches, and lawn and garden equipment; lawn, tree, and shrub care services; landscape gardening services; consulting services in the field of lawn, tree, and shrub care and landscape gardening
Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant hereby appoints Susan E. Hollander, Esq. and Gail I. Nevius Abbas, Esq. of Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Bldg. 2
Palo Alto, California 94304
United States

to submit this application on behalf of the applicant. The attorney docket/reference number is 28405-047.

Correspondence Information: Susan E. Hollander, Esq.
Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Bldg. 2
Palo Alto, California 94304
650-812-1300(phone)
650-213-0260(fax)
patrademarks@manatt.com (authorized)

A fee payment in the amount of \$325 will be submitted with the application, representing payment

for 1 class(es).

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The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Gail I. Nevius Abbas/ Date: 06/10/2009
Signatory's Name: Gail I. Nevius Abbas, Esq.
Signatory's Position: Attorney of Record

Thank you,

The TEAS support team

Wed Jun 10 10:08:39 EDT 2009

STAMP: USPTO/BAS-64.94.105.67-20090610100839729034-77755938-
400baf83160b0a5adb9f83a82efa41b64dd-DA-6459-20090609153638432529

Figone, Mary

From: TEAS@uspto.gov
Sent: Wednesday, June 10, 2009 8:07 AM
To: Trademarks - PA
Subject: Received Your Trademark/Service Mark Application, Principal Register for serial number 77755988

MARK: Gro (stylized and/or with design, mark_649410567-153119092_-_Gro_Dwg_.x.jpg)

The literal element of the mark consists of Gro.
The applicant is not claiming color as a feature of the mark. The mark consists of Capital letter "G" followed by lower case letters "r" "o" all stylized.

We have received your application and assigned serial number '77755988' to your submission. The summary of the application data, *bottom below*, serves as your official filing receipt. In approximately 3 months, an assigned examining attorney will review your application. Currently, your mark is not registered, but rather is considered a "pending" application. The overall process, from the time of initial filing to final registration, can take 13-18 months or even longer, depending on many factors; *e.g.*, the correctness of the original filing and the type of application filed.

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10250 Constellation Blvd., Suite 2800
Los Angeles, California 90067
United States

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 001: Fertilizers and fertilizers in the form of spikes for trees and shrubs for domestic, agricultural and horticultural use; plant foods, plant growth regulatory preparations and substances, plant growth stimulants and enhancers; soil amendments, soil conditioners, soil additives, soil wetting agents and soil improving agents for domestic, agricultural and horticultural use; growing media for plants, garden soils, planting soils, potting mix comprised of soil and fertilizer, potting soils, compost, humus, loam, manure and peat

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant hereby appoints Susan E. Hollander, Esq. and Gail I. Nevius Abbas, Esq. of Manatt, Phelps & Phillips, LLP
1001 Page Mill Road, Bldg. 2
Palo Alto, California 94304
United States

to submit this application on behalf of the applicant. The attorney docket/reference number is 28405-047.

Correspondence Information: Susan E. Hollander, Esq.
Manatt, Phelps & Phillips, LLP
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punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements, and the like, may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. Section 1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Declaration Signature

Signature: /Gail I. Nevius Abbas/ Date: 10//0906

Signatory's Name: Gail I. Nevius Abbas, Esq.

Signatory's Position: Attorney of Record

Thank you,

The TEAS support team

Wed Jun 10 11:06:38 EDT 2009

STAMP: USPTO/BAS-64.94.105.67-20090610110638664138-77755988-400201c83d817d51d245c8345c559ae9-DA-6947-20090609153119092364

EXHIBIT 2

EXHIBIT 2

Samples of The MIRACLE-GRO Trade Dress

MIRACLE-GRO
Reg. No. 213992

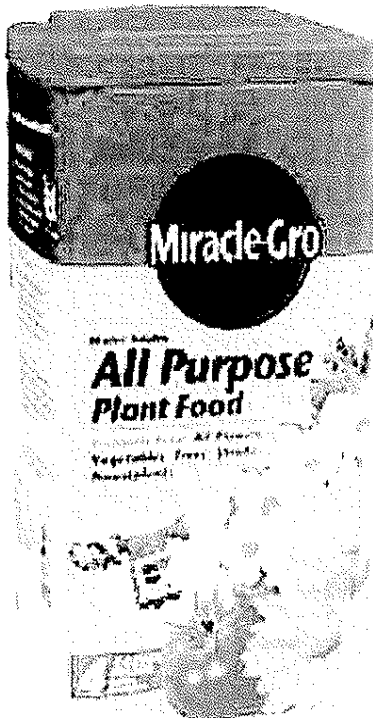
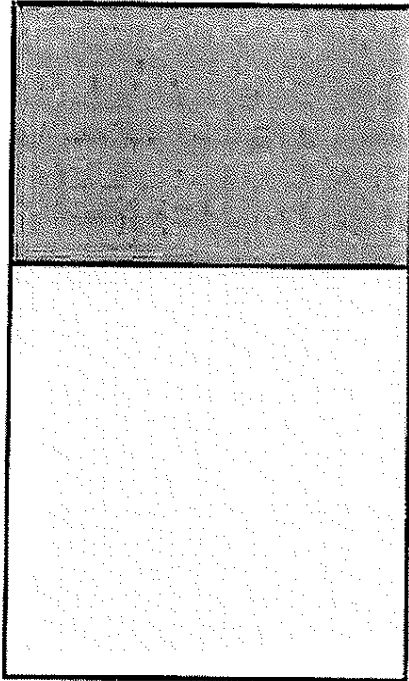


EXHIBIT 3

Int. Cl.: 1

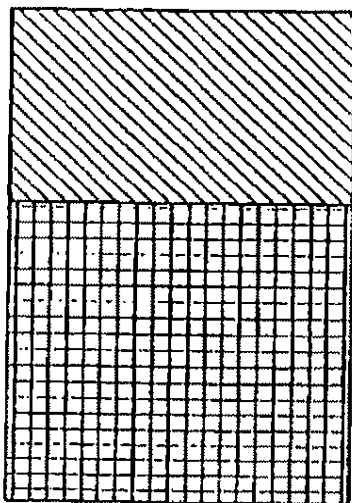
Prior U.S. Cls.: 1, 5, 6, 10, 26 and 46

Reg. No. 2,139,929

United States Patent and Trademark Office

Registered Mar. 3, 1998

**TRADEMARK
PRINCIPAL REGISTER**



SCOTT'S MIRACLE-GRO PRODUCTS, INC.
(OHIO CORPORATION)
800 PORT WASHINGTON BLVD.
PORT WASHINGTON, NY 11050, ASSIGNEE
OF STERN'S NURSERIES, INC. (NEW YORK
CORPORATION) PORT WASHINGTON, NY
11060

FOR: PLANT FOOD, IN CLASS 1 (U.S. CLS. 1,
5, 6, 10, 26 AND 46).

FIRST USE 4-15-1951; IN COMMERCE
4-15-1951.

OWNER OF U.S. REG. NO. 1,842,586 AND
OTHERS.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE THE REPRESENTATION OF A
RECTANGULAR BOX CONFIGURATION,
APART FROM THE MARK AS SHOWN.

THE DRAWING IS LINED FOR THE
COLORS GREEN AND YELLOW.

THE MARK CONSISTS OF A RECTANGU-
LAR SHAPED BOX IN THE COLORS GREEN
AND YELLOW.

SEC. 2(F).

SER. NO. 74-642,109, FILED 3-6-1995.

TERESA M. RUPP, EXAMINING ATTORNEY

EXHIBIT 4

FREE Parcel Shipping at Lowes.com on Orders \$49 and Above.

FIND A STORE Weekly Ads

(0) items Welcome to Lowes.com

ZIP

Find

My Account Order Status Register Log In

Or Click for Advanced Search

Keywords or item#

Search

Sign up for Lowe's email updates

you@email.com

Sign Up

Shop by Department

Shop by Room

Special Offers

Gift Center

How-To

For Your Business

Help

Home



Click to Enlarge

Pennington 15 Lb. Shady Lawn Mixture

Item #: 39583 Model: 118742

\$42.67

Product Availability:

Because product availability varies by area, please enter your local zip code to see item availability.

Zip Code:

Submit

Already have an account with Lowe's? Log in

| Description | Customer Rating |
|--|----------------------------------|
| Contains QUIKGRO 2X™ for increased seeding success and faster lawn establishment | Weight (lbs.) 15.0 |
| Produces a fine-bladed, dark green, low maintenance lawn | Sun tolerance. Shade |
| Specially formulated to outperform other shade mixes | Grass Seed Type: Mixture |
| Guaranteed to grow | Coverage Area (Sq. Feet): 1500.0 |
| | EPA Registration Number: N/A |

Need Help?

- Help
- Contact Us
- Find Your Local Store
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Inspiration and Help from Us

- Product Guides Be informed before you buy.
- How-To Library Projects and ideas for do-it-yourselfers.
- Project Calculators Plan your projects with these helpful tools



Lowe's Credit Services

Finance your ideas
No annual fees. Low
monthly payments
Learn more
Apply now



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Credit Center

Rate My Space

GM Business Choice

Services

Installation Services
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Gift Cards
In-Store Services

Customer Care

Rebates
Recalls
Returns & Refunds
Shipping Rates &

Partner Websites

Lowe's Creative Ideas
Lowe's for Pros
Lowe's Moving Center
Lowe's Pro

We Promise

Everyday Low Prices
Brands You Know & Trust
Security & Privacy

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[Protection Plans](#)

[Special Orders](#)

[Suppliers](#)

[Policies](#)

[Warranties](#)

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[Español](#)

[Chinese](#)

[Vietnamese](#)

[Korean](#)

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Lowe's and the gable design are registered trademarks of LF, LLC. Terms of Use
Item availability and price may vary by location



FREE Parcel Shipping at Lowes.com on Orders \$49 and Above.

FIND A STORE Weekly Ads

(0) items Welcome to Lowes.com

ZIP

Find

My Account Order Status Register Log In

Or Click for Advanced Search

Keywords or item#

Search

Sign up for Lowe's email updates

you@email.com

Sign Up

Shop by Department

Shop by Room

Special Offers

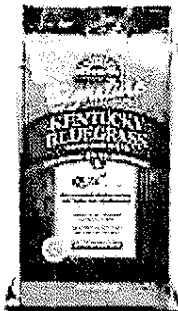
Gift Center

How To

For Your Business

Help

Home



Click to Enlarge

Pennington 7 Lb. Kentucky Bluegrass Blend

Item #: 33861 Model: 118709

\$32.97

Product Availability:

Because product availability varies by area, please enter your local zip code to see item availability.

Zip Code:

Submit

Already have an account with Lowe's? Log in

| Description | Customer Rating | |
|---|---------------------------|-------------|
| Contains QUIKGRO 2X™ for increased seedling success and faster lawn establishment | Weight (lbs.): | 7.0 |
| Produces a lush, fine-bladed, emerald green lawn | Sun tolerance: | Sun & Shade |
| Aggressively spreads to fill in bare spots and thin areas | Grass Seed Type: | Blend |
| Guaranteed to grow | Coverage Area (Sq. Feet): | 4600.0 |
| | EPA Registration Number: | N/A |

Need Help?

Help
Contact Us
Find Your Local Store
General Contact

Inspiration and Help from Us

Product Guides
Be informed before you buy.
How-To Library
Projects and ideas for do-it-yourselfers.
Project Calculators
Plan your projects with these helpful tools.



Lowe's Credit Services

Finance your ideas.
No annual fees. Low monthly payments.
Learn more
Apply now



Featured Promotions

Credit Center

Rate My Space

GM Business Choice

Services

Installation Services
Lowe's Credit Services
Gift Cards
In Store Services

Customer Care

Rebates
Recalls
Returns & Refunds
Shipping Rates &

Partner Websites

Lowe's Creative Ideas
Lowe's for Pros
Lowe's Moving Center
Lowe's Pro

We Promise

Everyday Low Prices
Brands You Know & Trust
Security & Privacy

Home Services

Protection Plans

Special Orders

Suppliers

Company Information

Policies

Warranties

Contact Us

Lowe's Home

Healthy Home

Efficient Home

Homebase

Bridge

[About Lowe's](#)
[Store Locator](#)
[Careers](#)
[Lowe's Canada](#)
[Lowe's Mexico](#)
[Español](#)
[Chinese](#)
[Vietnamese](#)
[Korean](#)

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Lowe's and the gable design are registered trademarks of LF LLC Terms of Use

Item availability and price may vary by location



EXHIBIT 5

EXHIBIT 5

PENNINGTON SUNBURST LINE

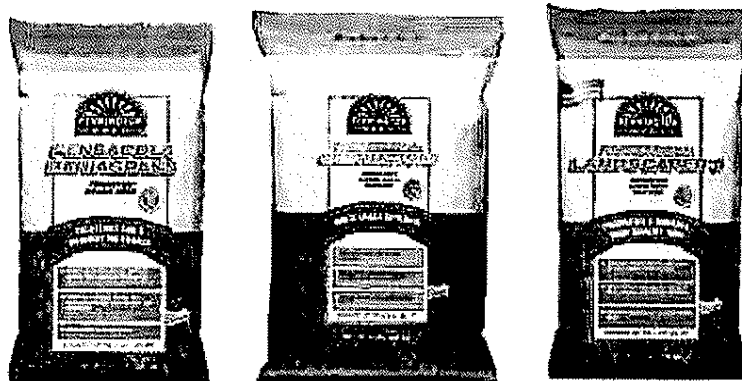
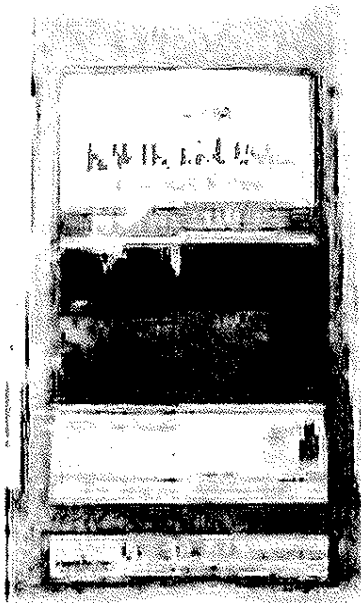
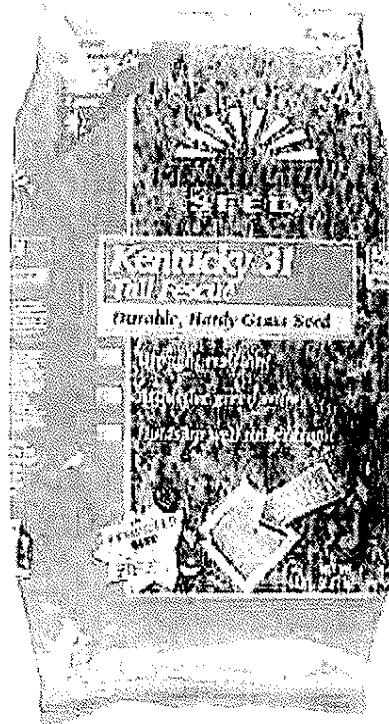
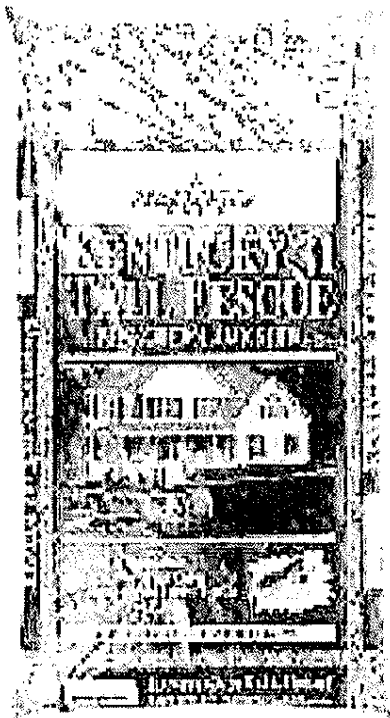


EXHIBIT 6

EXHIBIT 6

Prior Pennington Trade Dress



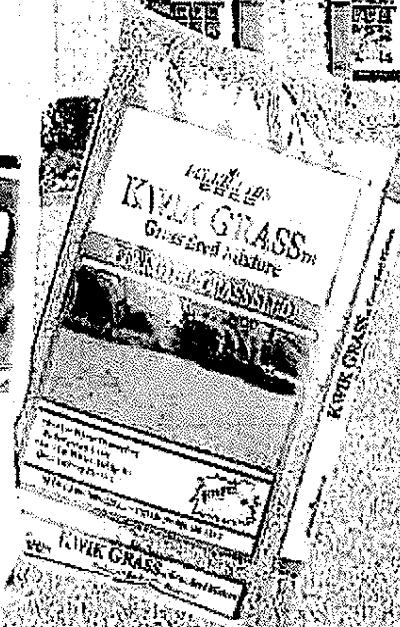
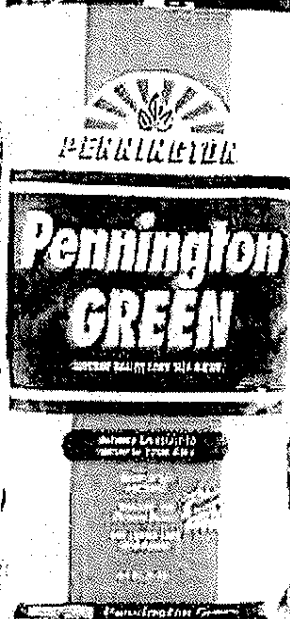
PENNINGTON

Seed Varieties

MIXES & BLENDS

PENNINGTON SEED
CONTRACTOR'S
GRASS
SEED
MIXTURE

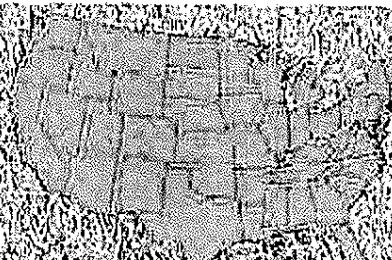
PENKOTED SEED
 NET WT. 15 LBS.
 (6.8 Kg)



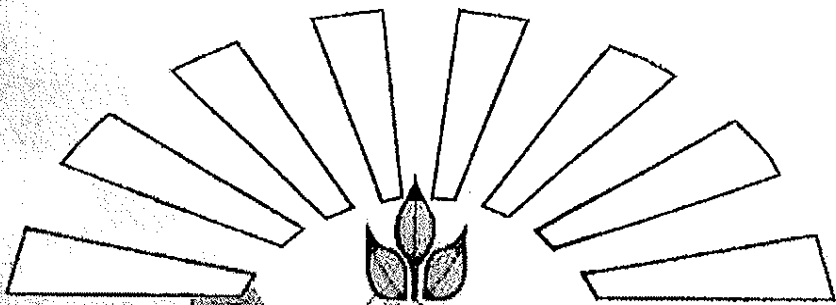
*Mixes and Blends are specially formulated for different regions of the U.S. '99

USE
PENKOTED
SEED

- Our exclusive, tested-on seed coating for:
- INCREASED SEED GROWTH
- FUNGUS PROTECTION
- LESS ATTRACTIVENESS TO BIRDS

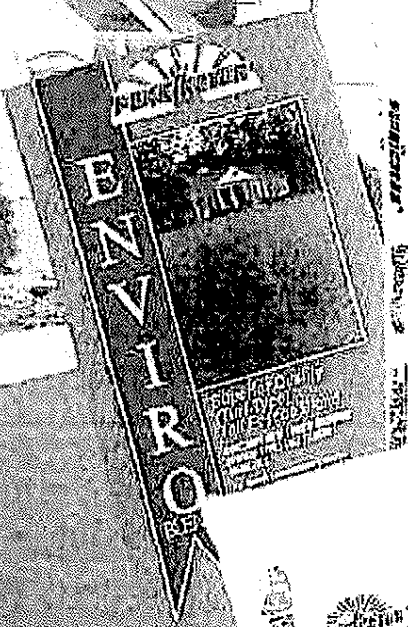


TALL FESCUE



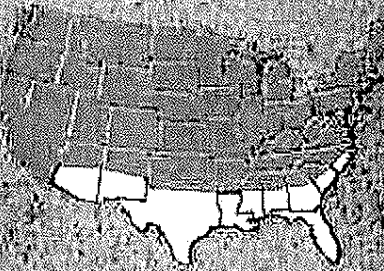
PENNINGTON®

Seed Varieties



USE
**PENKOTED®
SEED**

- One exclusive, lock-on seed coating for:
- INCREASED ROOT GROWTH
- FODDER PROTECTION
- LESS ATTRACTIVENESS TO BIRDS





CREeping RED FESCUE

- Deep green color produces a dense fine textured turf in medium to heavy shade
- Performs well under varied soil moisture conditions
- Seeding rate—4-5 lbs./1,000 sq. ft.
- Plant in sun to medium shade

| PSI | UPC no. | Description | Case Pack | Size | Case Weight | Case Cube | Pallet Pack | Pallet Cube |
|--------|----------------|---------------------|-----------|--------|-------------|-----------|-------------|-------------|
| 148185 | 0-2149600458-7 | Creeping Red Fescue | 1 | 50 lb. | 51 lb. | 1.4 | 24 | 34 |

CREeping RED FESCUE PENKOTED

- Deep green color produces a dense fine textured turf in medium to heavy shade
- Performs well under varied soil moisture conditions
- Seeding rate—4-5 lbs./1,000 sq. ft.
- Plant in sun to medium shade

| PSI | UPC no. | Description | Case Pack | Size | Case Weight | Case Cube | Pallet Pack | Pallet Cube |
|--------|----------------|------------------------|-----------|--------|-------------|-----------|-------------|-------------|
| 148212 | 0-2149600632-1 | Creeping Red Fescue PK | 1 | 25 lb. | 26 lb. | 0.9 | 24 | 22 |
| 148206 | 0-2149600513-3 | Creeping Red Fescue PK | 10 | 5 lb. | 51 lb. | 1.4 | 18 | 25 |
| 148198 | 0-2149600514-0 | Creeping Red Fescue PK | 25 | 2 lb. | 51 lb. | 1.4 | 18 | 25 |

FLYER CREeping RED FESCUE

- Leading a new generation of turf type spreading red fescues
- Deep green color produces a dense fine textured turf in medium to heavy shade
- Performs well under varied soil moisture conditions
- Tolerant to high temperatures and humidity
- Seeding rate—4-5 lbs./1,000 sq. ft.
- Plant in sun to medium shade

| PSI | UPC no. | Description | Case Pack | Size | Case Weight | Case Cube | Pallet Pack | Pallet Cube |
|--------|----------------|----------------------------|-----------|--------|-------------|-----------|-------------|-------------|
| 148241 | 0-2149600795-3 | Flyer Creeping Red Fesc | 1 | 50 lb. | 51 lb. | 1.4 | 24 | 34 |
| 148237 | 0-2149600602-4 | Flyer Creeping Red Fesc PK | 5 | 10 lb. | 51 lb. | 1.4 | 18 | 25 |
| 148233 | 0-2149600600-0 | Flyer Creeping Red Fesc PK | 1 | 25 lb. | 26 lb. | 1.4 | 24 | 34 |
| 148235 | 0-2149600636-9 | Flyer Creeping Red Fesc PK | 10 | 5 lb. | 51 lb. | 1.4 | 18 | 25 |



PENN CENTIPED

- Excellent drought tolerance
- Low to medium shade tolerance
- Plant in sun or light shade
- Seeding rate— $\frac{1}{4}$ - $\frac{1}{2}$ lb./1,000 sq. ft.

| PSI | UPC no. | Description | Case Pack | Size | Case Weight | Case Cube | Pallet Pack | Pallet Cube |
|--------|----------------|--------------|-----------|-------|-------------|-----------|-------------|-------------|
| 123176 | 0-2149600540-8 | Centipede PK | 10 | 5 lb. | 51 lb. | 1.4 | 24 | 34 |
| 123170 | 0-2149600525-6 | Centipede PK | 12 | 1 lb. | 13 lb. | 0.4 | 42 | 17 |
| 123162 | 0-2149600525-3 | Centipede PK | 24 | 8 oz. | 13 lb. | 0.4 | 45 | 18 |

PENN CENTIPED WITH MULCH

- Excellent drought tolerance
- Low to medium shade tolerance
- Seeding rate—5 lbs./1,000 sq. ft.

| PSI | UPC no. | Description | Case Pack | Size | Case Weight | Case Cube | Pallet Pack | Pallet Cube |
|--------|----------------|--------------|-----------|-------|-------------|-----------|-------------|-------------|
| 123192 | 0-2149600481-4 | Cent W/Mulch | 6 | 5 lb. | 31 lb. | 1.4 | 18 | 25 |

ST. AUGUSTINE WITH MULCH

- Excellent drought tolerance
- Low to medium shade tolerance
- Seeding rate—5 lbs./1,000 sq. ft.

| PSI | UPC no. | Description | Case Pack | Size | Case Weight | Case Cube | Pallet Pack | Pallet Cube |
|--------|----------------|-----------------|-----------|-------|-------------|-----------|-------------|-------------|
| 125120 | 0-2149600485-2 | St. Aug W/Mulch | 6 | 5 lb. | 31 lb. | 1.4 | 18 | 25 |

PENSACOLA BAHIAGRASS

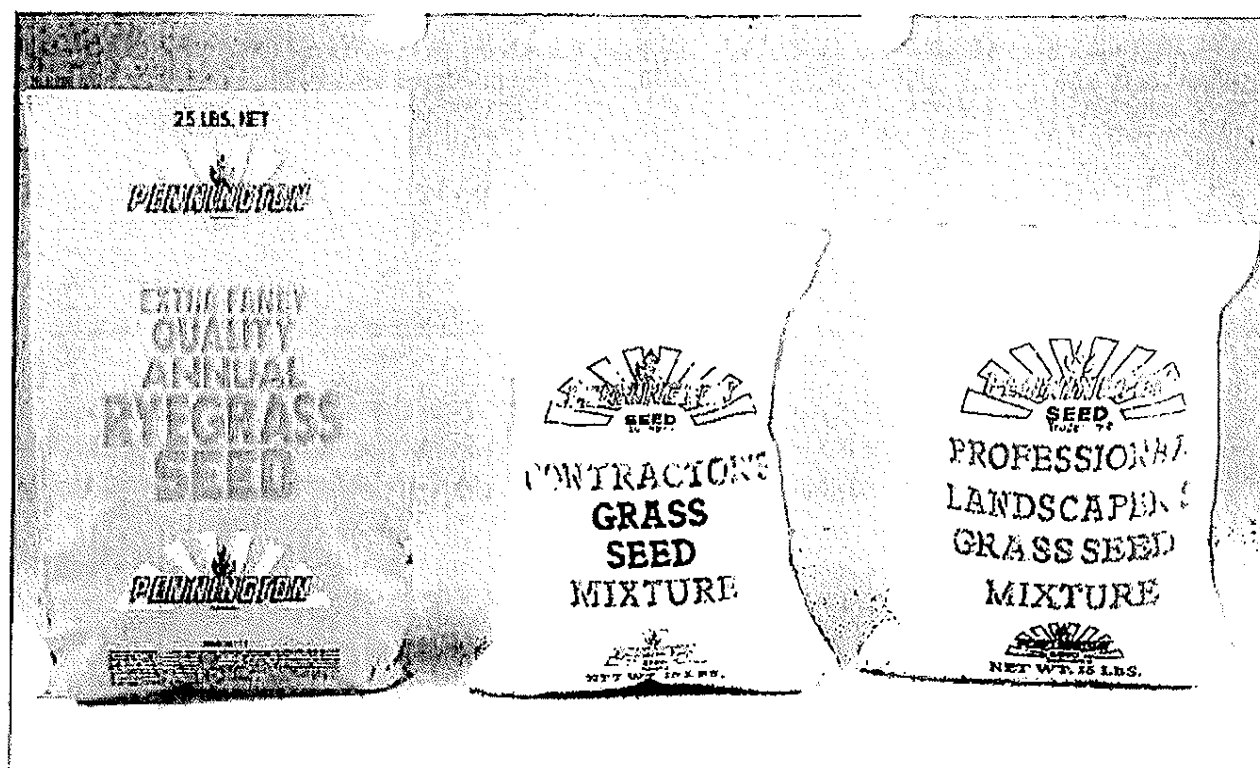
- Deep root system for excellent drought resistance
- Dormant brown after first frost
- Must be mowed frequently due to seed head emergence
- Seeding rate—7-10 lbs./1,000 sq. ft.
- Plant in full sun

| PSI | UPC no. | Description | Case Pack | Size | Case Weight | Case Cube | Pallet Pack | Pallet Cube |
|--------|----------------|-------------------------|-----------|--------|-------------|-----------|-------------|-------------|
| 105482 | 0-2149600645-1 | Pensacola Bahiagrass PK | 1 | 50 lb. | 51 lb. | 1.4 | 24 | 34 |
| 105481 | 0-2149600782-2 | Pensacola Bahiagrass PL | 1 | 50 lb. | 51 lb. | 1.4 | 24 | 34 |
| 105542 | 0-2149600529-4 | Pensacola Bahiagrass PK | 10 | 5 lb. | 51 lb. | 1.4 | 24 | 34 |
| 105402 | 0-2149600530-0 | Pensacola Bahiagrass PK | 25 | 2 lb. | 51 lb. | 1.4 | 24 | 34 |
| 105515 | 0-2149600623-9 | Pensacola Bahiagrass PL | 25 | 2 lb. | 51 lb. | 1.4 | 24 | 34 |

ARGENTINE BAHIAGRASS

- Deep root system for excellent drought resistance
- Dormant brown after first frost
- Must be mowed frequently due to seed head emergence
- Forms an excellent turf in Florida and Gulf Coast area
- Seeding rate—7-10 lbs./1,000 sq. ft.
- Plant in full sun

| PSI | UPC no. | Description | Case Pack | Size | Case Weight | Case Cube | Pallet Pack | Pallet Cube |
|--------|----------------|----------------------|-----------|--------|-------------|-----------|-------------|-------------|
| 105273 | 0-2149600641-3 | Argent Bahiagrass | 1 | 50 lb. | 51 lb. | 1.4 | 24 | 34 |
| 105273 | 0-2149600641-3 | Argent Bahiagrass PK | 1 | 50 lb. | 51 lb. | 1.4 | 24 | 34 |
| 105220 | 0-2149600531-7 | Argent Bahiagrass PK | 10 | 5 lb. | 51 lb. | 1.4 | 24 | 34 |
| 105201 | 0-2149600532-4 | Argent Bahiagrass PK | 25 | 2 lb. | 51 lb. | 1.4 | 24 | 34 |
| 105200 | 0-2149600640-6 | Argent Bahiagrass PL | 25 | 2 lb. | 51 lb. | 1.4 | 24 | 34 |



ANNUAL RYEGRASS

- Lush green color in winter
- Low drought tolerance
- Best for temporary lawn or overseeding a warm season lawn
- Seeding rate—5-10 lbs./1,000 sq. ft.
- Plant in sun or light shade

| PSI | UPC no. | Description | Case Pack | Size | Case Weight | Case Cube | Pallet Pack | Pallet Cube |
|--------|----------------|-----------------|-----------|-------|-------------|-----------|-------------|-------------|
| 184224 | 0-2149600557-7 | Annual Ryegrass | 1 | 50 lb | 51 lb | 1.7 | 24 | 41 |
| 184119 | 0-2149600558-0 | Annual Ryegrass | 1 | 25 lb | 26 lb | 0.93 | 40 | 37 |
| 184114 | 0-2149600515-7 | Annual Ryegrass | 5 | 10 lb | 51 lb | 1.7 | 24 | 41 |
| 184109 | 0-2149600516-4 | Annual Ryegrass | 10 | 5 lb | 51 lb | 1.7 | 24 | 41 |

CONTRACTORS MIX

- Provides quick grass cover
- Climatically formulated
- Sunny and shady coverage
- Seeding rate—5-10 lbs./1,000 sq. ft.

| PSI | UPC no. | Description | Case Pack | Size | Case Weight | Case Cube | Pallet Pack | Pallet Cube |
|--------|----------------|-------------------------|-----------|--------|-------------|-----------|-------------|-------------|
| 116032 | 0-2149600628-4 | Contractors Mix-North | 1 | 15 lb. | 16 lb. | 0.7 | 60 | 42 |
| 116032 | 0-2149600628-4 | Contractors Mix-Central | 1 | 15 lb. | 16 lb. | 0.7 | 60 | 42 |
| 116032 | 0-2149600628-4 | Contractors Mix-South | 1 | 15 lb. | 16 lb. | 0.7 | 60 | 42 |

PROFESSIONAL LANDSCAPERS MIX

- Quick and early establishment
- Excellent for soil erosion areas
- Seeding rate—5-10 lbs./1,000 sq. ft.

| PSI | UPC no. | Description | Case Pack | Size | Case Weight | Case Cube | Pallet Pack | Pallet Cube |
|--------|----------------|-----------------|-----------|--------|-------------|-----------|-------------|-------------|
| 164574 | 0-2149600468-4 | Landscapers mix | 1 | 15 lb. | 16 lb. | 0.7 | 60 | 42 |

EXHIBIT 7

EXHIBIT 7

